

TITLE 9

BUSINESS LICENSE AND REGULATIONS

Chapter

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2. Business Licenses. (Repealed)
3. Alcoholic Beverages.
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CHAPTER 1

GENERAL LICENSING

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9-1-1. Application of chapter.

Except as otherwise expressly provided, the provisions of this chapter shall apply to all county business licensing activities. (Ord. 95-26, 12/05/95)

9-1-2. Definitions.

As used in this title:

(1) "Agricultural industry or business" means an industry or business involving agricultural products in manufacturing, packaging, treatment, sales, intensive feeding, or storage, including but not limited to commercial greenhouses, feed yards, fur farms, food packaging or processing plants; commercial poultry or egg production, and similar uses. Agricultural industry or business shall not include the raising or sale of unprocessed crops, including hay.

(2) "Health department" means the Tooele County Health Department.

(3) "Business, trade, profession or calling" means and includes all activities engaged in within the unincorporated limits of Tooele County carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specified.

(4) "Clerk" means the Tooele County Clerk.

(5) "Engaging in business" means the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, and the rendering of personal services for others for consideration by persons engaged in any profession, trade, craft, business, occupation or other calling except the rendering of personal services by an employee to an employer under any contract of personal employment. Engaging in business also includes agricultural industries, but not farming or ranching.

(6) "Farming" means tilling soil, raising and selling unprocessed crops, including hay, horticulture and gardening, breeding, grazing and keeping or raising domestic animals and fowl, but shall not include any agricultural industry or business.

(7) "Place of business" means a location maintained or operated by a person within the unincorporated limits of the county from which a business activity is conducted or transacted. (Ord. 95-26, 12/05/95)

9-1-3. Doing business without a license prohibited.

It shall be unlawful:

(1) to commence or carry on any business, trade, profession or calling without taking out a license therefor;

(2) to engage in any activity regulated or licensed under the provisions of this title if a license therefor has been suspended or revoked; or

(3) to otherwise violate any provision of this title. (Ord. 95-26, 12/05/95)

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9-1-4. Failure to obtain a license - Penalties.

Any person doing business without a license when a license is required, including circumstances where a license has expired, been suspended or revoked, shall, in addition to applicable criminal penalties, be required to pay all applicable fees as though a license had been issued during the period of unlicensed activity, plus penalties described in Subsection 9-1-12(7). (Ord. 2011-07, 2/15/11; Ord. 95-26, 12/05/95)

9-1-5. License issuance - Fee collection - Audits.

The county shall issue licenses and assess and collect license fees. The county may audit the records of applicants or licensees to ensure compliance with any licensing provision. It may refuse to issue a license or may suspend or revoke a license if the applicant or licensee, for any reason, fails or refuses to cooperate in such an audit. (Ord. 95-26, 12/05/95)

9-1-6. Index of licenses.

The clerk shall maintain an alphabetical and numerical index of all licenses issued. The index shall state the number, names to whom issued, the type of license issued, time of issuance and the period covered, the place of business, the kind of business to be transacted, the amount paid and such other information as may be considered necessary. (Ord. 95-26, 12/05/95)

9-1-7. Procedure to obtain license.

Applicants for a business license shall submit a properly completed application form to the clerk. Unless otherwise provided, if issuance of the requested license is consistent with applicable law, the clerk shall approve the application and issue a license. (Ord. 95-26, 12/05/95)

9-1-8. Application for license.

(1) An application for a license shall be in writing on a form approved by the clerk. The application shall show all of the following with respect to all persons, excluding shareholders or their equivalent, having a legal or equitable ownership interest in the subject business or other activity:

(a) the name, address, date of birth and both home and business telephone numbers, including the same information with respect to all partners, officers or directors;

(b) a description of the business, trade, profession, or calling for which a license is requested, including any assumed or fictitious names which may be used;

(c) the address of the property where the subject business, trade, profession, or calling is to be carried on;

(d) the state tax number of the subject business, trade, profession, occupation or activity; and

(e) any other information required by this title, by statute, or as reasonably required by the clerk.

(2) It shall be unlawful to incorrectly or fraudulently state or misrepresent any fact as part of applying for or retaining any license. (Ord. 95-26, 12/05/95)

9-1-9. Inspections.

As a condition of the issuance, continuation or renewal of a business license, the applicant shall, upon reasonable demand, permit continuing inspections of the place of business or other activity to ensure compliance with all applicable business, zoning, health, or safety regulations. The clerk may refuse to issue a license or may suspend or revoke a license if the applicant or licensee should, for any reason, fail or refuse to cooperate with such an inspection. (Ord. 95-26, 12/05/95)

9-1-10. Separate license required for each location.

A separate license must be obtained and a separate fee paid for each place of business where a business activity is established. Each license shall authorize the licensee to engage in only that business activity described in such license and only at the location which is indicated thereon. A location shall be considered separate if it has been assigned a different mailing or street address. A business that regularly provides goods or services at various locations in the county but has no place of business or mailing address shall still be required to obtain a business license. (Ord. 95-26, 12/05/95)

9-1-11. Term of license - Certificate form - Transfer prohibited.

Unless otherwise expressly provided, the following shall apply to all licenses issued pursuant to this title:

(1) All licenses shall be issued for a period of one year which shall extend from July 1 to June 30.

(2) Every certificate of license shall specify by name the person to whom it is issued, and shall designate the particular type of business licensed and the location.

(3) No license shall be in any manner assignable or transferable, neither shall it authorize any licensee to do business at any other place than indicated in such license, or authorize any other business than is therein mentioned, except by permission of the county commission or unless otherwise provided herein. (Ord. 95-26, 12/05/95)

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9-1-12. License fees.

(1) Except as provided for in Section 9-1-15, every person intending to engage in business shall, before commencing business, obtain a license and pay to the county \$25.00 per year, or any portion thereof, for each place of business, or if no place of business is established, for each business activity that takes place within the county.

(2) An employee who is not a partner or owner shall not be required to pay for an individual license.

(3) License fees shall be paid in advance for the term of the license. They shall not be prorated when a new application is made during the license term. License fees shall not be refunded because the business or activity for which the same was obtained has been discontinued for any reason.

(4) No rebate shall be allowed upon any license.

(5) Other than when a business is renewing their license if there is a change in the name of the business, address, or owners different than what is shown on the county clerk's records, an administrative fee of \$10.00 shall be charged to update the license and records.

(6) Any person or firm who fails to renew the license before it expires shall be assessed an administrative penalty of \$25.00 in addition to the fee specified in Subsection 9-1-12(1).

(7) Any person or entity operating a business in violation Tooele County Code, Section 9-1-3, shall be assessed an administrative penalty of \$150.00 in addition to the fee specified in Subsection 9-1-12(1).

(8) License fees and penalties shall be collected by the county clerk pursuant to procedures established by the county clerk, auditor and treasurer. Payment thereon shall be enforced as authorized by law.

(9) There is no right to continue a licensed activity without the payment of required fees and penalties. In addition to any criminal action, the county may bring civil action to collect any delinquent or unpaid fee. In the event legal action is filed to collect delinquent or unpaid fees, the debtor shall pay a reasonable attorney's fee and costs. (Ord. 2011-07, 2/15/11; Ord. 2000-24, 09/05/00)

9-1-12.1. Zoning administrator authorized to examine and inspect businesses - Powers and duties.

(1) The zoning administrator and engineering planners are hereby authorized and empowered to examine and inspect all places of business to verify that businesses authorized by the license issued are carried on in accordance with this Title and other applicable laws. They may enter any building or premises during regular business hours; or, if there are no regular business hours, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

If the property owner or other responsible person refuses entry or inspection of the property, the zoning administrator or planner may obtain and execute a search warrant.

(2) The zoning administrator or planner shall report to the county clerk and the county attorney all persons doing business without a license and instances of conduct by any party or business other than that covered by the license issued. (Ord. 2000-24, 09/05/00)

9-1-13. Additional fees.

The fees required under this chapter are in addition to fees required by Chapters 3 and 4 of this title and the license fees for garbage haulers under Title 7. County business license fees are also in addition to fees that may be required by the State of Utah. (Ord. 95-26, 12/05/95)

9-1-14. Multiple businesses at one location.

If a person desires to engage in a business which may include two or more businesses at the same location, the person shall only be required to obtain one business license, provided each different business is listed in the application for a license. (Ord. 95-26, 12/05/95)

9-1-15. Reciprocal licenses - No fee required.

(1) Wherever any person, firm or corporation doing business in the unincorporated limits of the county which has no office, building or plant in the county but has a current business license in a city or town located within Tooele County, such license shall be recognized by the county for the purpose of waiving the county license fee. Such business shall nevertheless apply for and obtain a county business license, but no license fee shall be charged when evidence of the city or town business license is presented.

(2) Occupational and professional licenses are not reciprocal business licenses. Such licensees shall also take out county business licenses before doing business in the county. (Ord. 95-26, 12/05/95)

9-1-16. Code compliance.

(1) Issuance of a business license does not excuse a licensee from compliance with applicable zoning, building, fire, electrical, or health codes or other regulatory requirements. No license shall be issued without first obtaining written preliminary approval of the business location from the planning and zoning officer or a designee, indicating that the proposed business complies with the county's zoning regulations.

(2) The following shall be printed on the face of each license:

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“NOTICE

To engage in the business for which this license is issued, you must comply with all county health and safety codes, including those relating to zoning, building, health and fire safety. If now, or in the future, you do not comply with these codes, this license does not authorize you to engage in business.”

(Ord. 95-26, 12/05/95)

9-1-17. Exemptions.

Acquisition of a business license is not required for any person or organization for an activity which is conducted, managed or carried on wholly for charitable or religious purposes from which profit is not derived, directly or indirectly by any individual, firm or profit corporation. No business license is required on any farming or ranching operation, yard sales of less than seven days in duration, activities of minors in short-term entrepreneurial activities such as lemonade stands, or any person engaged in a business specifically exempted from municipal licensing by the laws of the United States or the State of Utah. Businesses located within the boundaries of federal military installations or Indian reservations are exempt from obtaining county business or beer licenses, unless such a business extends its activities beyond the installation or reservation boundaries into the unincorporated areas of Tooele County. The person claiming an exemption has the burden of establishing such exemption. (Ord. 95-26, 12/05/95)

9-1-18. Suspension or revocation - Grounds.

The clerk may suspend or revoke a license if:

- (1) the license was issued when it should not have been;
- (2) the business fails or refuses to permit or cooperate with an audit or inspection;
- (3) the business fails to pay a required fee;
- (4) continuing operation of the licensed activity would constitute a nuisance or present a danger to the health, general welfare or morals of the community; or
- (5) the business is violating this title or any other applicable law, including zoning, building or health regulations. (Ord. 95-26, 12/05/95)

9-1-19. Suspension or revocation - Hearing.

No license issued under this title shall be suspended or revoked until an informal hearing is held before the clerk. Written notice of such hearing shall be served at least ten days prior to the date thereof upon the licensee. Service shall be effective when sent by first class mail to the address indicated in the business license application. Such notice shall state the basis of

the complaint and the time and place of the hearing. The decision of the clerk may be appealed to the county commission. No part of the license fee shall be refunded in cases of suspension or revocation. (Ord. 95-26, 12/05/95)

9-1-20. Appeal procedures.

(1) If a business license is denied by the clerk or if the clerk suspends or revokes a license or if a penalty is imposed, the applicant or licensee may appeal such action.

(2) Filing of an appeal must be within ten days of the date of service of the notice of any denial, qualified approval, suspension, revocation or penalty. Upon receiving the notice of such appeal, a hearing shall be scheduled before a hearing officer designated by the county commission within 20 days from the date of the appeal, unless such time shall be extended for good cause.

(3) The hearing officer shall hold a public hearing with a verbatim record of the proceedings being kept, and take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or penalty was proper under the law.

(4) The burden of proof shall be upon the clerk.

(5) After the hearing, the hearing officer shall have seven working days, unless extended for good cause, in which to render findings of fact, conclusions of law, and a recommended decision to the county commission.

(6) Either party may object to the recommendation of the hearing officer by filing the party's objections and reasons, in writing, to the county commission within seven days following the recommendation. In the event the hearing officer recommends upholding a suspension or revocation, the license shall be immediately suspended, and shall remain suspended until any subsequent appeal is decided. If no objection is received within the seven days, the county commission may immediately adopt the recommendation of the hearing officer.

(7) If an objection is received, the county commission shall have ten working days to consider the objection before issuing a final decision. The county commission may, in its discretion, take additional evidence, hold a hearing or require the submission of a written memorandum on issues of fact or law. The standard by which the county commission shall review the decision of the hearing officer is whether evidence exists in the record to support the hearing officer's recommendation. (Ord. 95-26, 12/05/95)

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9-1-21. Displaying license.

Every certificate of license shall be displayed by the licensee in a conspicuous place easily viewed by the public, in which the licensed business, trade, profession, or calling is carried on. When such certificate of license has expired it shall be removed from public view. A licensee without a fixed place of business shall carry a certificate of license while engaged in business. It shall be the duty of each licensee, agent, and employee to show the certificate of license upon demand. (Ord. 95-26, 12/05/95)

9-1-22. New license - Six months wait.

No person who has been denied a license or whose license has been revoked, and no person associated or connected with such a person in the conduct of business, shall be granted a new license until six months after such denial or revocation has elapsed. (Ord. 95-26, 12/05/95)

9-1-23. Repealed. (Ord. 95-26, 12/05/95)

9-1-24. Repealed. (Ord. 95-26, 12/05/95)

9-1-25. Repealed. (Ord. 95-26, 12/05/95)

CHAPTER 2

BUSINESS LICENSES (REPEALED)

(Ord. 95-26, 12/05/95)

CHAPTER 3

ALCOHOLIC BEVERAGES

Section

9-3-1. Definitions.

9-3-2. License required to sell alcoholic beverages.

9-3-3. Beer licenses classified.

9-3-4. License applications - Fee refund and forfeiture.

9-3-5. Beer retailing and wholesaling fees.

9-3-6. Suspension or revocation of beer license.

9-3-7. Appeal procedures.

9-3-8. Repealed.

9-3-9. Sale or possession of beer at certain times unlawful.

9-3-10. Distance restrictions.

9-3-11. Applicability.

9-3-12. Age restrictions.

9-3-13. Unlawful sale or supply to minors.

9-3-14. Unlawful sale or supply to intoxicated persons.

9-3-15. Container size restrictions.

9-3-16. Unlawful purchase or consumption by minors.

9-3-17. Unlawful purchase by intoxicated persons.

9-3-18. Lighting.

9-3-1. Definitions.

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

(1) **“Alcoholic beverages”** means and includes beer and liquor, as they are defined herein.

(2) **“Beer,” “light beer,” “malt liquor,” or “malted beverages”** means all products that contain 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but not more than 4% of alcohol by volume or 3.2% by weight, and are obtained by fermentation, infusion or decoction of any malted grain. Beer may or may not contain hops or other vegetable products.

(3) **“Cabaret”** means any room, house, building, or structure or place occupied by any person having a Class A or B beer license, wherein a dance floor is provided for patrons or entertainers to dance.

(4) **“Licensee”** means any persons holding any beer, liquor or private club license in connection with the operation of a place of business or private club. This term shall also include any employee of the licensee.

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

(6) (a) **“Liquor”** means alcohol, or any alcoholic, spirituous, vinous, fermented, malt, or other liquid, or combination of liquids, a part of which is spiritous, vinous, or fermented, and all other drinks, or drinkable liquids that contain more than ½ of 1% of alcohol by volume and are suitable to use for beverage purposes;

(b) **“Liquor”** does not include any beverage defined as a beer, malt liquor, or malted beverage that has an alcohol content of less than 4% alcohol by volume.

(7) **“Lounge”** means any room, house, building or structure, or place occupied by any person having a Class B or C beer license, where no dance floor is provided for patrons to dance.

(8) **“Nuisance”** means any room, building, structure or place which is licensed under the provisions of this title, where:

(a) alcoholic beverages are manufactured, sold, kept, bartered, stored, given away or used contrary to the Alcoholic Beverage Control Act of Utah or this chapter, or where persons resort for drinking beverages contrary to the Alcoholic Beverage Control Act of Utah, or of this title;

(b) entertainers are allowed to perform or simulate sexual intercourse, masturbation, sodomy, bestiality, copulation, flagellation or any sexual acts prohibited by law;

(c) performers simulate or actually touch, caress or fondle breasts, buttocks, anus or genitalia;

(d) persons are allowed to actually display or simulate the display of pubic hair, female nipples, vulva or genitalia;

(e) persons are permitted, allowed or not impeded from touching, caressing or fondling the breast(s), buttock(s), anus or genitalia of an entertainer, or that portion of an entertainer’s clothing covering the breast(s), buttock(s), anus or genitalia;

(f) the licensee permits any person to remain in or upon licensed premises who exposes to public view any portion of his or her genitalia, nipples, buttock(s) or anus;

(g) films or pictures are displayed depicting acts which are prohibited above from being performed live on the licensed premises;

(h) persons under the age of twenty-one are permitted to purchase or drink beer; or

(i) applicable laws or ordinances governing licensee’s business operation are violated by the licensee or his agents or patrons with the consent or knowledge of the licensee.

(9) **“Place of business”** as used in connection with the issuance of a beer license, means and includes cafes, restaurants, public dining rooms, cafeterias, lounges, taverns, cabarets, and any other place where the general public is invited or admitted for business purposes, and shall also be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business as herein defined.

(10) **“Restaurant”** as used in connection with the issuance of a Class B retail license, means premises where a variety of hot food is served for consumption on the premises and where no more than 40 percent of the gross volume of business is derived from the sale of beer sold at such premises.

(11) **“Retailer”** means any person engaged in the sale or distribution of beer to the consumer.

(12) **“Sell”** or **“to sell”** when used in this title in any provision, means to solicit, or to receive any order for, to keep or expose for sale, to deliver for value or gratuitously, to peddle, to possess with intent to sell, to traffic in for any consideration promised or obtained directly or indirectly or under any pretext, or by any means whatsoever to procure or allow to be procured for any other person; and **“sale”** when so used shall include every act of selling as above defined.

(13) **“Wholesaler”** means any person other than a brewer or retailer engaged in importation for sale or in the sale of beer in wholesale or jobbing quantities. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-3-2. License required to sell alcoholic beverages.

(1) It shall be unlawful for any person to sell beer, either as a wholesaler or retailer, without first having applied for and obtained a license therefore. All licensees shall have qualified under and shall comply with the provisions and regulations of the Alcoholic Beverages Control Act and the Department of

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Alcoholic Beverage Control, and all other statutes of the State of Utah pertaining thereto.

(2) All licenses granted under the authority of this section shall be subject to revocation as provided in this chapter. (Ord. 2002-17, 8/6/02)

9-3-3. Beer licenses classified.

Licenses issued under this chapter shall be of the following kinds, and shall carry the following privileges:

(1) A Class A beer retail license shall entitle the licensee to sell beer on the premises in the original containers for consumption off the premises.

(2) A Class B beer retail license shall entitle the licensee to sell beer in the original container or on draft for consumption on the premises where the beer is sold or sell beer in sealed containers for consumption off the premises.

(3) A Class C beer retail license shall entitle the licensee to sell beer for consumption on the premises for single or special events.

(4) Wholesale beer licenses shall entitle the licensee to sell either bottled or keg beer to retailers for resale. (Ord. 2002-17, 8/6/02)

9-3-4. License applications - Fee refund and forfeiture.

(1) Application for a license to engage in the business of a wholesaler or retailer of beer shall be made to the County Clerk.

(2) If the applicant does not already have a Tooele County business license, applicant shall apply for a business license at the same time as the application for a beer license is made.

(3) Application for a beer license shall be upon a form furnished by the county and signed under oath by the applicant, accompanied by the appropriate license fee. The application is granted, the fee shall be deposited in the county treasury, otherwise it shall be returned to the applicant.

(4) Each applicant and licensee must be 21 years of age or older, of good moral character and a citizen of the United States. No license shall be granted to any applicant who has been convicted of a felony or misdemeanor involving moral turpitude.

(5) If applicant is a partnership, association or corporation, each partner, association member, or corporate director and officer must meet the requirements of Subsection (4).

(6) No license fee shall be refunded after a license has been issued.

(7) If the Clerk determines that the applicant has complied with the provisions of this chapter and all other applicable county and State laws and regulations,

the clerk shall approve the application and issue a license. (Ord. 2002-17, 8/6/02)

9-3-5. Beer retailing and wholesaling fees.

(1) The annual license fees for the retailing or wholesaling of beer shall be as follows:

- (a) Class A Beer License \$ 100
- (b) Class B Beer License \$ 200
- (c) Class C Beer License \$ 200
- (d) Wholesale Beer License \$ 200

(2) License fees for Class A, B or wholesale licenses may be prorated on a quarter-year basis. (Ord. 2002-17, 8/6/02)

9-3-6. Suspension or revocation of beer license.

(1) No license issued under this chapter shall be suspended or revoked until an informal hearing is held before the county clerk. Written notice of such hearing shall be served upon the licensee at least ten days prior to the date thereof. Service shall be effective when sent by certified mail to the address indicated in the beer license application. Such notice shall state the ground of the complaint and the time and place of the hearing.

(2) No part of the license fee shall be refunded in cases of suspension or revocation. (Ord. 2002-17, 8/6/02)

9-3-7. Appeal procedures.

(1) If a beer license is denied by the clerk or if the clerk suspends or revokes a license or if a civil fine is imposed, the applicant or licensee may file an appeal.

(2) Filing of an appeal must be within ten days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon receiving the notice of such appeal, a hearing shall be scheduled before a hearing officer designated by the county commission within 20 days from the date of the appeal, unless such time shall be extended for good cause.

(3) The hearing officer shall hold a public hearing, keep a verbatim record of the proceedings, and shall take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law.

(4) The burden of proof shall be on the county clerk.

(5) After the hearing, the hearing officer shall have seven working days, unless extended for good cause, in which to render findings of fact, conclusions of law, and a recommended decision to the county commission.

(6) Either party may object to the recommendation of the hearing officer by filing the party's objections and reasons, in writing, to the county commission within seven days following the recommendation. In the event the hearing officer recommends upholding a

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suspension or revocation, the license shall be immediately suspended, and shall remain suspended until any subsequent appeal is decided. If no objections are received within the seven days, the county commission may immediately adopt the recommendation of the hearing officer.

(7) If objections are received, the county commission shall have ten working days to consider such objections before issuing a final decision. The county commission may, in its discretion, take additional evidence, hold a hearing or require the submission of written memoranda on issues of fact or law. The standard by which the county commission shall review the decision of the hearing officer is whether evidence exists in the record to support the hearing officer's recommendation. (Ord. 2002-17, 8/6/02)

9-3-8. Repealed. (Ord. 2002-17, 8/6/02)

9-3-9. Sale or possession of beer at certain times unlawful.

(1) No off premises beer retailer shall sell beer between the hours of 1:00 a.m. and 7:00 a.m.

(2) No on premises beer retailer shall sell beer between the hours of 1:00 a.m. to 10:00 a.m.

(3) No person shall possess or consume beer or liquor on premises licensed under this chapter during the hours for which the sale of beer is prohibited. (Ord. 2002-17, 8/6/02)

9-3-10. Distance restrictions.

(1) Beer retail license premises may not be established within 600 feet of any public or private school, church, public library, public playground, school playground or park except where a variance is obtained from the State Alcoholic Beverage Commission pursuant to Utah Code Annotated 32A-10-201.

(2) The 600-foot limitation is measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is closer to the property boundary of the public or private school, church, public library, public playground, school playground or park. For the purposes of this section, education facility includes nursery schools, infant day care, and trade and technical schools.

(3) Any beer retail premises operating prior to the effective date of this title or any premises for which a beer license has been applied for prior to the effective date of this chapter, is exempt from the distance restrictions of this section so long as said premises complies with the distance restrictions of state law and

remains in continuous operation at the same location. (Ord. 2002-17, 8/6/02)

9-3-11. Applicability.

This chapter applies to all establishments and persons within the unincorporated limits of the county. (Ord. 2002-17, 8/6/02)

9-3-12. Age restrictions.

(1) A minor may not be granted a beer retailer license.

(2) A minor may not sell beer on the premises of a beer retailer for off-premise consumption except under the supervision of a person 21 years of age or older who is on the premises.

(3) No person under the age of 21 years shall be employed by or be on the premises of an on-premise beer retailer licensee to sell or dispense beer. Persons under the age of 21 years may not be employed by or be on the premises of any tavern. (Ord. 2002-17, 8/6/02)

9-3-13. Unlawful sale or supply to minors.

(1) A person may not sell, offer to sell, or otherwise furnish or supply any alcoholic beverage or products to any person under the age of 21 years.

(2) This section does not apply to the furnishing or supplying of an alcoholic beverage or product to a minor for medicinal purposes by the parent or guardian of the minor or by the minor's physician or dentist, in accordance with Utah law. (Ord. 2002-17, 8/6/02)

9-3-14. Unlawful sale or supply to intoxicated persons.

A person may not sell, offer to sell, or otherwise furnish or supply any alcoholic beverage or product to any person who is apparently under the influence of intoxicating alcoholic beverage or products or drugs or to a person whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs. (Ord. 2002-17, 8/6/02)

9-3-15. Container size restrictions.

(1) A person may not sell, offer to sell, purchase, possess, or otherwise furnish or supply beer to the general public for off-premises consumption in containers larger than two liters.

(2) Other than beer wholesalers or Class A or C licensees no person shall:

(a) possess an alcoholic beverage in a container larger than two liters;

(b) withdraw or dispense an alcoholic beverage from a container larger than two liters; or

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(c) possess or consume an alcoholic beverage which has been withdrawn or dispensed from a container larger than two liters. This subsection shall not apply to persons possessing or consuming draft beer on premises and dispensed by a Class A or C licensee. (Ord. 2002-17, 8/6/02)

9-3-16. Unlawful purchase or consumption by minors.

(1) It is unlawful for any person under the age of 21 years to purchase, possess, or consume any alcoholic beverage or product, unless specifically authorized by law.

(2) It is unlawful for any person under the age of 21 years to misrepresent their age, or for any other person to misrepresent the age of a minor, for the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor. (Ord. 2002-17, 8/6/02)

9-3-17. Unlawful purchase by intoxicated persons.

A person may not purchase any alcoholic beverage or product when he is under the influence of intoxicating alcoholic beverages, products, or drugs. (Ord. 2002-17, 8/6/02)

9-3-18. Lighting.

Businesses licensed under this chapter shall maintain throughout the premises and during business hours a minimum of one candle power light measured at a level of five feet above the floor. (Ord. 2002-17, 8/6/02)

CHAPTER 4

SEXUALLY ORIENTED BUSINESSES

Section

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9-4-1. Title for citation.

The ordinance codified in this chapter shall be known and may be referred to as the “**Sexually Oriented Business and Employee Licensing Ordinance.**” (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-2. Purpose of provisions.

It is the purpose and object of this chapter that the County establish reasonable and uniform regulations governing the time, place and manner of operation of sexually oriented businesses and their employees in the County. This chapter shall be construed to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

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9-4-3. Application of provisions.

This chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually oriented businesses, and certain employees of those businesses characterized as sexually oriented business employees. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-4. Definitions.

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

(1) **“Adult bookstore”** or **“adult video store”** means a commercial establishment:

(a) which holds itself out to be such a business;

(b) which excludes minors from more than 15 percent of the retail floor or shelf space of the premises; or

(c) which, as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, the central theme of which depicts or describes specified sexual activities or specified anatomical areas; or instruments, devices or paraphernalia which are designated for use in connection with specified sexual activities, except for legitimate medically recognized contraceptives.

(2) **“Adult business”** means an adult motion picture theater, adult bookstore or adult video store.

(3) **“Adult motion picture theater”** means a commercial establishment which:

(a) holds itself out as such a business;

(b) excludes minors from the showing of 2 consecutive exhibitions; repeated showing of any single presentation shall not be considered a consecutive exhibition; or

(c) as its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(4) **“Adult theater”** means a theater, concert hall, auditorium, or similar commercial establishment which:

(a) holds itself out as such a business;

(b) excludes minors from the showing of 2 consecutive exhibitions; repeated performance of

the same presentation shall not be considered a consecutive exhibition; or

(c) as its principal business, features persons who appear in live performances in a state of nudity or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

(5) **“Business license authority”** means the Tooele County Clerk or designee.

(6) **“Employ”** means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

(7) **“Escort”** means any person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters.

(8) **“Escort service”** means an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

(9) **“Escort service runner”** means any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort or patron by contacting or meeting with escort services, escorts or patrons at any location within the County, whether or not such third person is employed by such escort service, escort, patron, or by another business, or is an independent contractor or self-employed.

(10) **“Nude and seminude dancing agency”** means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books or otherwise engages or offers to furnish, book or otherwise engage the service of a professional dancer licensed pursuant to this chapter for performance or appearance at a business licensed for nude entertainment, seminude dancing bars, or adult theaters.

(11) **“Nude entertainment business”** means a business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of nudity or seminudity. A business shall also be presumed to be a nude entertainment business if the business holds itself out to be such a business.

(12) **“Nudity”** or **“state of nudity”** means a state of dress in which the nipple and areola, or any portion thereof, of the female breast, or male or female genitals, or any portion thereof, pubic region or anus are covered

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by less than the covering required in the definition of seminude.

(13) **“Out call services”** means services of a type performed by a sexually oriented business employee outside of the premises of the licensed sexually oriented business, including but not limited to escorts, models, dancers and other similar employees.

(14) **“Patron”** means any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this chapter.

(15) **“Pecuniary compensation”** means any commission, fee, salary, tip, gratuity, hire, profit, regard, or any other form of consideration.

(16) **“Person”** means any person, unincorporated association, corporation, partnership or other legal entity.

(17) **“Seminude”** means a state of dress in which opaque clothing covers no more than the nipple and areola of the female breast and covers the male or female genitals, the pubic region and anus shall be fully covered by an opaque covering no narrower than four inches wide in the front and five inches wide in the back which shall not taper to less than one inch wide at the narrowest point.

(18) **Repealed.** (Ord. 2003-41, 12/23/03)

(19) **“Sexually oriented business”** means nude entertainment business, sexually oriented Out call services, adult business, seminude dancing bars and seminude dancing agencies, as defined by this chapter.

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

(21) **“Specified anatomical areas”** means the human male or female pubic area or anus with less than a full opaque covering, or the human female breast from the beginning of the areola, papilla or nipple to the end thereof with less than full opaque covering.

(22) **“Specified sexual activities”** means:

(a) Acts of:

- (i) masturbation;
- (ii) human sexual intercourse;
- (iii) sexual copulation between a person and a beast;
- (iv) fellatio;
- (v) cunnilingus;
- (vi) bestiality;
- (vii) pederasty;
- (viii) buggery; or
- (ix) any anal intercourse between a human male and another human male, human female, or beast;

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

- (i) the genitals of a human;
- (ii) the public area of a human;
- (iii) the uncovered female nipple or areola;

(c) Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed. (Ord. 2003-41, 12/23/03; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-5. Obscenity - Statutory provisions.

Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to the provisions of this code, or other applicable federal or state statutes prohibiting obscenity. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-6. Location and zoning restrictions.

(1) It is unlawful for any sexually oriented business to do business at any location not zoned for such business, except out call services and nude and seminude dancing agencies are not limited to locations zoned for sexually oriented businesses.

(2) Each sexually oriented business shall be located not closer than 300 feet to any zoning district boundary.

(3) Each sexually oriented business shall be located at least 1320 feet from the property line on which it is located to:

(a) the property line of any other sexually oriented business; or

(b) the boundary of any zoning district which allows a church, school, recreational area frequented by the general public, a day care or pre-school, an establishment that sells beer or liquor for on- or off-premise consumption, a motel or hotel, a residential dwelling, lodging house, or

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dormitory congregate residence. (Ord. 2003-41, 12/23/03; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-7. Business license required.

It is unlawful for any person to operate a sexually oriented business, as specified below, without first obtaining a sexually oriented business license. The business license shall specify the type of business for which it is obtained. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-8. Exemptions from license requirements.

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, psychotherapist nor shall it apply to any educator licensed by the state for activities in the classroom. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-9. Legitimate artistic modeling.

(1) The County does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar state protections. The County does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of subsection (11) of Section 9-4-22, a licensed Out call employee may appear in a state of nudity before a customer or patron providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least 24 hours before the nude appearance. All of the other applicable provisions of this chapter shall still apply to such nude appearance.

(2) In the event of a contract for nude modeling or appearance signed more than 48 hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this chapter. During such unlicensed nude appearance, it is unlawful to:

- (a) appear nude or seminude in the presence of persons under the age of 18;
- (b) allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;
- (c) allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;
- (d) allow, offer, commit or agree to any sex act as validly defined by County ordinances or state statute;
- (e) allow, offer, agree or permit the contracting party or other person to masturbate in

the presence of the individual contracted to appear nude; or

(f) allow, offer or agree for the individual appearing nude to be within five feet of any other person while performing or while nude or seminude. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-10. Business categories - Number of licenses.

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

(2) The categories of sexually oriented businesses are:

- (a) Out call services;
- (b) adult businesses;
- (c) nude entertainment businesses;
- (d) seminude dancing bars;
- (e) nude and seminude dancing agency.

(Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-11. Employee licenses.

(1) It is unlawful for any sexually oriented business to employ, or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license.

(2) Each performer, dancer and escort service provider of a sexually oriented business shall have a current certification from the Tooele County Health Department certifying that such person is free of all sexually transmitted diseases and HIV. The employee shall renew the certification annually.

(3) No employee shall be allowed to work at the sexually oriented business who does not have a license or certification or whose certification has expired.

(4) The employer shall retain in the business office copies of all employees' licenses and certifications and will present them upon request of an inspection in accordance with Section 9-4-45. (Ord. 2003-41, 12/23/03; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-12. License - Application - Disclosures required.

Before any applicant may be licensed to operate a sexually oriented business or as a sexually oriented business employee, the applicant shall submit, on a form supplied by the county clerk the following:

- (1) the name of each applicant, corporation, partnership, limited partnership or entity doing business under an assumed name;
- (2) if a corporation, partnership or limited partnership, or individual or entity doing business under

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an assumed name, such information as would be required for individual applicants for each partner and principal of the applicant, and for each officer, director and any shareholder, corporate or personal, involved in the day-to-day running of the business;

(3) if a corporation, partnership or noncorporate entity, information identifying each individual authorized by the corporation, partnership or noncorporate entity to sign checks for such corporation, partnership or noncorporate entity;

(4) for each applicant:

(a) any other name or alias used by the individual;

(b) age, date and place of birth;

(c) height;

(d) weight;

(e) color of hair;

(f) color of eyes;

(g) present business address and telephone number;

(h) present residence and telephone number;

(i) Utah driver license or identification number; and

(j) social security number;

(5) documentation that each individual is at least 18 years of age or, in the case of employees to be employed in businesses where a different age is required, proof of the required age;

(6) two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the Sheriff's Office, or for persons not residing in the County, the photographs and fingerprints shall be on a form from the law enforcement jurisdiction where the person resides, and in all cases fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;

(7) for any sexually oriented business performer, dancer or escort service provider, a copy of a certificate issued by the Tooele County Health Department certifying that such person has been tested for sexually transmitted diseases and HIV and found to be free of any such disease;

(8) a statement of the business, occupation or employment history of the applicant for three years immediately preceding the date of the filing of the application;

(9) a statement detailing the license or permit history of the applicant for the five-year period immediately preceding the date of the filing of the application, including whether such applicant has previously operated or is seeking to operate, in this or any other county, city, or state has ever had a license, permit or authorization to do business denied, revoked

or suspended, or has had any professional or vocational license or permit denied, revoked or suspended, and in the event of any such denial, revocation or suspension, the date and the reasons therefor, including an attached copy of any order of denial, revocation or suspension;

(10) all criminal convictions or pleas of nolo contendere, except misdemeanor traffic offenses, stating the date, place, nature of each arrest and sentence of each conviction or other disposition identifying the arresting or convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers, noting that an application for a sexually oriented business employee license shall constitute a waiver of disclosure of any criminal arrests or convictions for the purposes of any proceeding involving the business or employee license;

(11) in the event the applicant is not the owner of record of the real property upon which the business is to be located, a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property, also the name, address and phone number of the owner of record of the property as well as the copy of the lease or rental agreement pertaining to the premises in which the business will be located;

(12) a description of the services to be provided by the business, with sufficient detail to identify what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations or employment guidelines under or by which the business intends to operate, including:

(a) the hours that the business or service will be open to the public and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity;

(b) the methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities;

(c) the methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this chapter or other statutes or ordinances;

(d) the methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity; and

(13) such other information and identification as the Sheriff's Office, Health Department, or County

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licensing authority may reasonably require in order to discover or verify the truthfulness and completeness of the matter as required to be set forth in the application. (Ord. 2003-41, 12/23/03; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-13. License - Fees.

(1) Each applicant for a sexually oriented business or employee license shall be required to pay regulatory license fees pursuant to the following schedule:

- (a) yearly business regulatory license fees;
 - (i) adult businesses and seminude dancing bars - \$100,
 - (ii) Out call businesses - \$200,
 - (iii) nude and seminude dancing agencies and nude entertainment businesses - \$150,
- (b) for each business applicant, an initial investigation fee of \$100 for each applicant required to submit a separate disclosure application;
- (c) yearly sexually oriented business employee license fees:

- (i) any employee providing Out call business services away from the premises of the Out call business - \$150,
- (ii) adult business employees, Out call business employees requiring a license but not performing any services outside the licensed premises, nude entertainment business employees requiring a license but not individually providing nude entertainment services to patrons, seminude dancing bar employees requiring a license but who are not performers and employees of nude and seminude dancing agencies requiring licenses but who are not performers - \$50,
- (iii) employees of nude entertainment businesses personally providing nude entertainment to patrons - \$150,
- (iv) professional dancers performing in seminude dancing bars - \$150.

(2) Any individual applying for more than one license at the same time shall pay the higher of all applicable fees and an additional \$20.00 for each additional license requested.

(3) These fees shall be in addition to the other license and fees required to do business in the County. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-14. License - Bond.

Each application for a sexually oriented business license shall post with the County Clerk, a cash or corporate surety bond payable to Tooele County Corporation in the amount of \$2,000. Any fines

assessed against the business, officers or managers for violations of County ordinances shall be taken from this bond if not paid in cash within 10 days after notice of the fine, unless an appeal is filed as provided by this chapter. In the event the funds are drawn against the cash or surety bond to pay such fines the bond shall be replenished to \$2,000 within 15 days of the date of notice of any draw against it. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-15. License - Premises location and name.

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

(2) It is unlawful for any sexually oriented business to do business in the County under any name other than the business name specified in the application. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-16. License - Issuance conditions.

The County Clerk shall approve the issuance of a license to the applicant within 30 days after receipt of an application, unless the official finds one or more of the following:

- (1) the applicant is under eighteen years of age or any higher age, if the license sought requires a higher age;
- (2) the applicant is overdue in payment to the County of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business;
- (3) the applicant has failed to provide information reasonably necessary for investigation and issuance of the license, or has falsely answered a material question or request for information as authorized by this chapter;
- (4) the applicant has been convicted of a violation of a provision of this chapter within two years immediately preceding the application; however, the fact that a conviction is being appealed shall have no effect on the denial;

(5) the premises to be used for the business have not been approved by the County health department, the sheriff's department, the County building officials or the County zoning officials as being in compliance with applicable laws and ordinances of the County. Businesses located outside of the corporate boundaries of the County, but requiring a license under this chapter, may be denied a license pursuant to this chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location;

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(6) the license fees required by this chapter or by other ordinances have not been paid;

(7) all applicable sales and use taxes have not been paid;

(8) an applicant has been convicted or pled nolo contendere to a crime:

(a) involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors; possession of child pornography; public lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction regardless of the exact title of the offense; for which:

(i) less than 2 years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than 5 years, if the convictions are of 2 or more misdemeanors within the 5 years; or

(ii) less than 5 years have elapsed from the date of conviction, if the offense is of a felony;

(b) the fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-17. License - Term.

Sexually oriented business and employee licenses issued pursuant to this chapter shall be valid from the date of issuance through June 30th of each succeeding year. The license fees required under Section 9-3-13 above shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-18. License - Notice of change of information.

Any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the County Clerk and the Sheriff's department within 14 days after such change. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-19. License - Transfer limitations.

Sexually oriented business licenses granted under this chapter shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership or other noncorporate entity to transfer any part in excess of 10 percent thereof, without filing a new application and obtaining prior County approval. If any transfer of the controlling interest in a business licensee occurs, the license is immediately null and void, and the business shall not operate until a separate new license has been properly issued by the County as provided in this chapter. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-20. License - Display.

It is unlawful for any sexually oriented business location within the boundaries of the County to fail to display the license granted pursuant to this chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this chapter to fail to, at all times while engaged in licensed activities within the corporate boundaries of the County, carry their employee license on their person. If the individual is nude, such license shall be visibly displayed within the same room as the employee is performing. When requested by a law enforcement officer, County licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the County. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-21. License - Statement in advertisements.

It is unlawful for any advertisement by the sexually oriented business or employee to fail to state that the business or employee is licensed by the County, and shall include the County license number. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-22. Regulations and unlawful activities.

It is unlawful for any sexually oriented business or sexually oriented business employee to:

(1) allow persons under the age of 18 years, or the age of 21 years if required by applicable liquor ordinance, on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

(2) allow, offer or agree to conduct any Out call business with persons under the age of 18 years;

(3) except for seminude dancing bars, to allow, offer or agree to allow any alcohol being stored, used or consumed on or in the licensed premises;

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(4) allow the outside door to the premises to be locked while any customer is in the premises;

(5) allow, offer or agree to gambling on the licensed premises;

(6) allow, offer or agree to any sexually oriented business employee touching any patron or customer; except that Out call employees and customers may touch except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited;

(7) allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;

(8) allow sexually oriented business employees to possess, use, sell or distribute controlled substances, while engaged in the activities of the business;

(9) allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the licensed premises or, in the event of an Out call employee or business, the Out call employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;

(10) allow, offer, commit or agree to any sex act as validly defined by County ordinances or state statute in the presence of any customer or patron;

(11) allow, offer or agree to any Out call employee appearing before any customer or patron in a state of nudity;

(12) allow, offer or agree to allow a patron or customer to masturbate in the presence of the sexually oriented business employee or on the premises of a sexually oriented business. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-23. Out call services - Operation requirements.

It is unlawful for any business or employee providing Out call services contracted for in Tooele County, to fail to comply with the following requirements:

(1) All businesses licensed to provide Out call services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a

register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.

(2) All Out call businesses licensed pursuant to this chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours Out call employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For Out call businesses which premises are licensed within the corporate limits of the County, private rooms or booths where the patrons may meet with the Out call employee shall not be provided at the open office or any other location by the service, nor shall patrons meet Out call employees at the business premises.

(3) Out call services shall not advertise in such a manner that would lead a reasonably prudent person to conclude that sexual activities would be performed by the Out call employee. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-24. Adult business - Design of premises.

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

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

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

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

(d) The diagram required shall not necessarily be a professional engineer's or architect's

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blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures, and ratings for illumination capacity.

(2) It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station in subsection (a) of this section remain unobstructed by any doors, walls, merchandise, display racks or any other materials, at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(3) The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1 foot candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-25. Nude entertainment business - Design of premises.

(1) It is unlawful for business premises licensed for nude entertainment to:

(a) permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater such items may be on the stage as part of a performance;

(b) allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors and restroom doors, to be lockable from the inside; or

(c) provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least 3 feet high and 6 inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.

(2) Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of 3 feet, which separation shall be delineated by a physical barrier at least 3 feet high. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-26. Repealed. (Ord. 2003-41, 12/23/03)

9-4-27. Alcohol prohibited.

Alcoholic beverages shall not be served or consumed on any premise of a sexually oriented business. (Ord. 2003-41, 12/23/03; Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-28. Seminude dancing bar - Performer restrictions.

It is unlawful for any person to perform or appear in a state of semi-nudity as a professional dancer, model, performer or otherwise on the premises of a business licensed as a seminude dancing bar, either gratuitously or for compensation, unless that person is licensed as a sexually oriented business employee. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-29. Nude and seminude dancing agencies.

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

(2) It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dancer, model or performer in a state of semi-nudity or nudity, either gratuitously or for compensation, in, or for, any business licensed pursuant to this chapter, unless such person is licensed pursuant to this chapter. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-30. Performers - Prohibited activities.

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

(1) to touch in any manner any other person;

(2) to throw any object or clothing off the stage area;

(3) to accept any money, drink or any other object directly from any person;

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

(5) for the performer to place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-31. Performers - Costume requirements.

It is unlawful for performers in seminude dancing bars to fail to comply with the following costume requirements:

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(1) Performers shall at all times be costumed during performances in a manner not to violate any County ordinance concerning disorderly or obscene conduct, and such performers shall not perform or conduct themselves in such a manner as to violate the provision of any County ordinance. No performer shall appear in any business licensed as a seminude dancing bar during a performance or appearance, with less than opaque clothing which meets the definition of seminude, and, in the case of a female performer, covers the areola and nipple of such performer in a shape and color other than the natural shape and color of the nipple and areola.

(2) While on the portion of a business licensed as a seminude dancing bar used by patrons, performers shall be dressed in opaque clothing covering the performer's buttocks and pubic area and, in the case of a female, the breast and nipples. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-32. Stage requirements.

It is unlawful for any performer in a business licensed as a seminude dancing bar to appear in costume other than on a stage which shall be at least 3 feet from the portion of the premises on which patrons are allowed, and which shall be separated from the patrons by a solid barrier or railing the top of which shall be at least 2 feet from the floor. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-33. Patrons - Prohibited activities.

It is unlawful for any person, or patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money or object while such performer is performing; except that money may be placed on the stage which shall not be picked up by the performer except by hand. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-34. Nudity - Defenses to prosecution.

It is a defense to prosecution or violation under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

(1) by a proprietary school licensed by the state, or a college, junior college or university supported entirely or partly by taxation;

(2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-35. Existing businesses - Compliance time limits.

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

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

(b) All seminude dancing bars and employees thereof requiring licenses and nude and seminude dancing agency licenses shall have 45 days from the effective date of the ordinance codified in this chapter, or until their license must be renewed, whichever is first, to comply with the provisions of this chapter.

(c) All nude entertainment businesses shall have 45 days from the effective date of the ordinance codified in this chapter, or until their current license must be renewed, whichever is first, to comply with the provisions of this chapter.

(d) All adult businesses shall have 145 days from the effective date of the ordinance codified in this chapter, or until their current license must be renewed, whichever is first in time, to comply with the provisions of this chapter. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-36. Violation - Injunction.

An entity or individual who operates or causes to be operated a sexually oriented business, without a valid license, or who employs or is employed as an employee of a sexually oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this chapter, is subject to a suit for injunction in addition to the civil and criminal violations provided herein, and any other remedy available at law or in equity. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-37. Violation - License suspension or revocation.

(1) The County may issue a notice suspending or revoking a sexually oriented business or employee license granted under this chapter if a licensee, or an employee of the licensee has:

(a) violated or is not in compliance with this chapter;

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(b) has refused to allow any inspection of the premises of the sexually oriented business specifically authorized by this chapter, or by any other statute or ordinance;

(c) has failed to replenish the cost bond as provided in this chapter; such a suspension shall extend until the bond has been replenished;

(d) a licensee or employee has given materially false or misleading information in obtaining the license;

(e) a licensee or an employee knowingly operated the sexually oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;

(f) a licensee has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed;

(g) on 2 or more occasions within a 12 month period, a person or persons committed in or on, or solicited for on the licensed premises, or an Out call employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed, of the sexually oriented business at the time the offenses were committed; or

(h) a licensee is delinquent in payment to the County for ad valorem taxes, or sales taxes related to the sexually oriented business.

(2) Suspension or revocation shall take effect within ten days of the issuance of notice, unless an appeal is filed as provided by the chapter.

(3) The fact that a conviction is being appealed shall have no effect on the revocation of the license. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-38. Effect of license revocation.

When a license issued pursuant to this chapter is revoked, the revocation shall continue for 1 year from its effective date, and the licensee shall not be issued a sexually oriented business or employee license for 1 year from the date of such revocation. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-39. Appeal procedures.

(1) If the license is denied or approved with qualifications, or if a notice of suspension, revocation or citation of a civil fine is imposed, the applicant or licensee may file an appeal with the County Clerk.

(2) Filing of an appeal must be within 10 days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon

receiving the notice of such appeal, the County Clerk shall schedule a hearing before a designated hearing officer within 20 days from the date of the appeal unless such time shall be extended for good cause.

(3) The hearing officer shall hold a public hearing on the record, and take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law.

(4) The burden of proof shall be on the county.

(5) After the hearing, the hearing officer shall have 7 working days, unless extended for good cause, in which to render findings of fact, conclusions of law, and recommended decision to the County Commission.

(6) Either party may object to the recommendation of the hearing officer by filing the party's objection and reasons, in writing, to the County Commission within 7 days following the recommendation. In the event the hearing officer recommends upholding a suspension or revocation, the license shall be immediately suspended, and shall remain suspended until any subsequent appeal is decided. If no objections are received within the 7 days, the County Commission may immediately adopt the recommendation of the hearing officer.

(7) If objections are received, the County Commission shall have 10 working days to consider such objections before issuing final decision. The County Commission may, in its discretion, take additional evidence or require written memoranda on issues of fact or law. The standard by which the County Commission shall review the decision of the hearing officer is whether substantial evidence exists in the record to support the hearing officer's recommendation. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-40. Violation - Penalty.

In addition to revocation or suspension of a license, as provided in this chapter, each violation of this chapter shall, upon citation by the County Clerk, require the licensee to pay a civil penalty in the amount of \$500. Such fines shall be deducted from the bond posted pursuant to this chapter, unless paid within 10 days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this chapter, the violation of any provision of this chapter shall be a class B misdemeanor. Each day of a violation shall be considered a separate offense. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

9-4-41. Severability.

In the event that any provision of this chapter is declared invalid for any reason, the remaining provisions shall remain in effect. (Ord. 95-19, 9/12/95; Ord. 92-5, 9/1/92)

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9-4-42. Window displays.

No merchandise or pictures of the products or entertainment on the premises shall be displayed in the window areas of a sexually oriented business or any area where they can be viewed from outside the building. (Ord. 2003-41, 12/23/03)

9-4-43. Hours of operation.

A sexually oriented business shall be open for business only between 10 a.m. to 2 a.m. of the following day. (Ord. 2003-41, 12/23/03)

9-4-44. Parking area lighting.

Each sexually oriented business shall provide sufficient lighting to adequately illuminate the establishment's public and employee parking lots for safety purposes. The lighting must be on during the night when the establishment is open for business and until the last employee has left the building. The lighting shall comply with county ordinances. (Ord. 2003-41, 12/23/03)

9-4-45. Inspections.

The sheriff, zoning administrator, county planners, and health department shall provide continuing inspections of each sexually oriented business to ensure compliance with all applicable business, zoning, health, safety, and public safety regulations. (Ord. 2003-41, 12/23/03)

CHAPTER 5

MITIGATION FEES (REPEALED)

(Ord. 2008-04, 1/8/08; Ord. 2006-26, 9/19/06)

CHAPTER 6

RESIDENTIAL SOLICITATION

Section

- 9-6-1. Purpose.
- 9-6-2. No other County license or approval required.
- 9-6-3. Definitions.
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- 9-6-16. Deceptive soliciting practices prohibited.
- 9-6-17. "No Soliciting" notice.
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- 9-6-19. Time of day restrictions.
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- 9-6-21. Penalties.

9-6-1. Purpose.

(1) Residents of the County 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 County 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 County also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

(2) There must be a balance between these substantial interests of the County 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 County 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

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decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door solicitation, the County adopts this Chapter to promote the County'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 advocates 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 County finds that the procedures, rules, and regulations set forth in this Chapter are narrowly tailored to preserve and protect the County interests referred to herein while at the same time balancing the rights of those regulated. (Ord. 2006-33, 11/21/06)

9-6-2. No other County license or approval required.

(1) Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the County to engage in door-to-door solicitation.

(2) Any business licensed by the County under another County ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.

(3) Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the County, provided they do not establish a temporary or fixed place of business in the County.

(4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

(Ord. 2006-33, 11/21/06)

9-6-3. Definitions.

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

(1) **"Advocating"** means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

(2) **"Appeals officer"** means the designee of the County responsible for receiving the information from the County and appellant regarding the denial or

suspension of a certificate and issuing a decision as required by this Chapter.

(3) **"Appellant"** means the person or entity appealing the denial or suspension of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

(4) **"Applicant"** means an individual who is at least 16 years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.

(5) **"Application form"** means a standardized form provided by the County to an applicant to be completed and submitted as part of registration.

(6) **"BCI"** means an original or copy, dated no older than 180 days prior to the date of the application, of either a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the applicant; or verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a disqualifying status exists for the applicant.

(7) **"Business"** means a commercial enterprise licensed by the County as a person or entity under this Title, having a fixed or temporary physical location within the County.

(8) **"Certificate"** means a temporary, annual, or renewal certificate permitting door-to-door solicitation in the County applied for or issued pursuant to the terms of this Chapter.

(9) **"Charitable activities"** means advocating by persons or entities that either are, or support, a charitable organization.

(10) **"Charitable organization"** includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

(a) that is:

(i) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

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

(iii) established for any charitable purpose; and

(b) that is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

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(c) 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 County or State of Utah. (Charitable Solicitation Act UCA §13-22-2(1)(a) & (b))

(11) **“Competent individual”** means a person claiming or appearing to be at least 18 years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

(12) **“Completed application”** means a fully completed application form, a B.C.I, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.

(13) **“Criminally convicted”** means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

(14) **“Disqualifying status”** means anything specifically defined in this Chapter as requiring the denial or suspension of a certificate, and any of the following:

(a) The applicant or registered solicitor has been criminally convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.

(b) Criminal charges currently pending against the applicant or registered solicitor for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.

(c) The applicant or registered solicitor has been criminally convicted of a felony within the last ten years;

(d) The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five years;

(e) The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five 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 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; or

(i) The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(15) **“Door-to-door solicitation”** means the practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and/or services.

(16) **“Entity”** includes a corporation, partnership, limited liability company, or other lawful entity, organization, society, or association.

(17) **“Fees”** means the cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and/or identification badge.

(18) **“Final civil judgment”** means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

(19) **“Goods”** means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

(20) **“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.

(21) **“Licensing officer”** means the County employees or agents responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant’s certificate.

(22) **“No solicitation sign”** means a reasonably visible and legible sign that states “No Soliciting,” “No

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Solicitors,” “No Salespersons,” “No Trespassing,” or words of similar import.

(23) **“Political position”** means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

(24) **“Registered solicitor”** means any person who has been issued a current certificate by the County.

(25) **“Registration”** means the process used by the county licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.

(26) **“Religious belief”** means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption, or position or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(27) **“Residence”** means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the County, 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.

(28) **“Responsible person or entity”** means that person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

(a) maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

(b) facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

(c) refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

(29) **“Sale of goods or services”** means the conduct and agreement of a solicitor and the competent individual in a residence regarding particular goods or services that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

(30) **“Services”** means those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

(31) **“Soliciting” or “Solicit” or “Solicitation”** means any of the following activities:

(a) Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

(b) Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

(c) Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;

(d) Seeking to obtain orders or prospective customers for goods or services.

(e) Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale.

(f) Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

(32) **“Solicitor”** means a person engaged in door-to-door solicitation.

(33) **“Submitted in writing”** means the information for an appeal of a denial or suspension of a certificate, submitted in any type of written statement to the County offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(34) **“Substantiated report”** means an oral, written, or electronic report:

(a) that is submitted to and documented by the County;

(b) by any of the following:

(i) a competent individual who is willing to provide law enforcement or other County employees with publicly available identification of their name, address, and any other reliable means of contact;

(ii) county law enforcement or licensing officer; or

(iii) any other regularly established law enforcement agency at any level of government;

(c) 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;

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(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 County.

(35) **“Waiver”** means the written form provided to the applicant by the County wherein the applicant agrees that the County 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. (Ord. 2006-33, 11/21/06)

9-6-4. Exemptions from chapter.

(1) The following are exempt from registration under this Chapter:

(a) persons specifically invited to a residence by a competent individual prior to the time of the person’s arrival at the residence;

(b) persons whose license, permit, certificate, or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;

(c) persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;

(d) persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

(e) persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific, or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

(2) Those persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 9-6-17, 9-6-18, and 9-6-19 while advocating or soliciting. (Ord. 2006-33, 11/21/06)

9-6-5. Solicitation prohibited.

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private residence within the County 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. (Ord. 2006-33, 11/21/06)

9-6-6. Registration of solicitors.

Unless otherwise exempt under this Chapter, all persons desiring to engage in door-to-door solicitation within the County, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate. (Ord. 2006-33, 11/21/06)

9-6-7. Application form.

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

(1) **Review of Written Disclosures.** An affirmation that the applicant has received and reviewed the disclosure information required by this Chapter.

(2) Contact Information.

(a) applicant’s true, correct, and legal name, including any former names or aliases used during the last ten 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 drivers license issued by any state;

(b) a valid passport issued by the United States;

(c) a valid identification card issued by any state; or

(d) a valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

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(4) **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.

(5) **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.

(6) **Marketing Information.**

(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.

(7) **BCI Background Check.** The applicant shall provide:

(a) an original or a copy of a BCI background check as defined in 9-6-3; and

(b) a signed copy of a waiver whereby the applicant agrees to allow the County to obtain a name/date of birth BCI background check on the applicant for purposes of enforcement of this Chapter. (Utah Code Ann. §53-10-108(1)(b))

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

(a) Has the applicant been criminally convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind?

(b) Are any criminal charges currently pending against the applicant for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind?

(c) Has the applicant been criminally convicted of a felony within the last ten years?

(d) Has the applicant been incarcerated in a federal or state prison within the past five years?

(e) Has the applicant been criminally convicted of a misdemeanor within the past five years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property?

(f) Has a final civil judgment been entered against the applicant within the last five years indicating that: (i) the applicant had either engaged

in fraud or intentional misrepresentation, or (ii) 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)?

(g) 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?

(h) Does the applicant have an outstanding arrest warrant from any jurisdiction?

(i) 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 County, 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. (Ord. 2006-33, 11/21/06)

9-6-8. Written disclosures.

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

(1) The applicant’s submission of the application authorizes the County to verify information submitted with the completed application including:

(a) the applicant’s address;

(b) the applicant’s and/or responsible person or entity’s state tax identification and special use tax numbers, if any; and

(c) the validity of the applicant’s proof of identity.

(2) The County may consult any publically available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.

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

(4) Identification of the fee amount that must be submitted by applicant with a completed application.

(5) The applicant must submit a BCI background check with a completed application.

(6) 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.

(7) The County will maintain copies of the applicant’s application form, proof of identity, and identification badge. These copies will become public

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records available for inspection on demand at the County offices whether or not a certificate is denied, granted, or renewed.

(8) The criteria for disqualifying status, denial, or suspension of a certificate under the provisions of this Chapter.

(9) That a request for a temporary certificate will be granted or denied the same business day that a completed application is submitted. (Ord. 2006-33, 11/21/06)

9-6-9. 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. (Ord. 2006-33, 11/21/06)

9-6-10. 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 the following conditions:

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

(vi) the applicant has not previously been denied a certificate by the County, or had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter.

(b) A temporary certificate will automatically expire after 25 calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.

(2) Annual Certificate.

Within 25 calendar days of the issuance of a temporary certificate the County 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; and

(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 9-6-14 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 9-6-14, or a disqualifying status is present. (Ord. 2006-33, 11/21/06)

9-6-11. 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 licensing officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the County.

(2) **Identification Badge.** With both the temporary and annual certificates, the County shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the County. The identification badge shall bear the name of the County 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; and (d) the date on which the certificate expires. (Ord. 2006-33, 11/21/06)

9-6-12. Maintenance of registry.

The licensing officer shall maintain and make available for public inspection a copy or record of every

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completed application received and the certificate or written denial issued by the County. 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 sheriff a listing of all applicants, those denied, and those issued a certificate. (Ord. 2006-33, 11/21/06)

9-6-13. Non-transferability of certificates.

Certificates shall be issued only in the name of the applicant and shall list the responsible person or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different: (a) goods or services; or (b) responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer. A new certificate based on the amended information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the County, after payment of the fee for the identification badge. (Ord. 2006-33, 11/21/06)

9-6-14. Denial, suspension, or revocation of a certificate of registration.

(1) **Denial.** Upon review, the licensing officer shall refuse to issue a certificate to an applicant for any of the following reasons:

(a) **Denial of Temporary Certificate.**

- (i) the application form is not complete;
- (ii) the applicant fails to establish proof of identity, provide a BCI, or pay the fees;
- (iii) the completed application or BCI indicates that the applicant has a disqualifying status; or
- (iv) the applicant has previously been denied a certificate by the County or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.

(b) **Denial of 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) failure to complete payment of the fees;

(iv) since the submission of the application, the County has received a substantiated report regarding the past or present conduct of the applicant;

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

(vi) since the submission of the application, a final civil judgment has been entered against the applicant indicating that: (i) the applicant had either engaged in fraud or intentional misrepresentation, or (ii) 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.**

(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 complete payment of the fees;

(iv) since the submission of the application or granting of a certificate, the County has received a substantiated report regarding the past or present conduct of the solicitor;

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

(vi) since the submission of the application, a final civil judgment has been entered against the applicant indicating that: (i) the applicant had either engaged in fraud or intentional misrepresentation, or (ii) 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 County shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

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(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 County 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 County relied on to make the decision, the availability of the documentation for review by the applicant upon one business day notice to the County, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 9-6-3(34)(c)(iv), 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.

(Ord. 2006-33, 11/21/06)

9-6-15. Appeal.

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the County Commission or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (a) documents the relationship with the applicant or responsible person or entity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

(1) Any appeal must be submitted in writing to the County Clerk with a copy to the licensing officer within ten business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.

(2) Upon request of the applicant or registered solicitor, within one business day, the County will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

(3) The appeals officer shall review, de novo, all written information submitted by 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 County, applicant, or registered solicitor. Any additional information submitted by any party to the appeal to the appeals officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.

(4) The appeals officer will render a decision no later than 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 9-6-15(3), the 15 calendar days shall be extended to include the additional three 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 upon when the appeal was filed.

(d) After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the County.

(5) Nothing herein shall impede or interfere with the applicant's, solicitor's, or County's right to seek relief in a court of competent jurisdiction.

(Ord. 2006-33, 11/21/06)

9-6-16. Deceptive soliciting practices prohibited.

(1) No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.

(2) A solicitor shall immediately disclose to the consumer during face-to-face solicitation; (i) the name of the solicitor; (ii) the name and address of the entity with whom the solicitor is associated; and (iii) the purpose of the solicitor's contact with the person and/or competent individual. This requirement may be

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satisfied through the use of the badge and an informational flyer.

(3) No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

(4) No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the county of the solicitor's goods or services or of the individual solicitor. (Ord. 2006-33, 11/21/06)

9-6-17. "No Soliciting" notice.

(1) Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.

(2) 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.

(3) It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.

(4) The provisions of this Section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this Chapter. (Ord. 2006-33, 11/21/06)

9-6-18. Duties of solicitors.

(1) Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to "No Solicitation" signs. If such sign or placard is posted, such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

(2) It is a violation of this Chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.

(3) It is a violation of this Chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

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

(5) The solicitor shall not intentionally or recklessly make any physical contact with, or touch, another person without the person's consent.

(6) The solicitor shall not follow a person into a residence without their explicit consent.

(7) The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods, or services of the solicitor.

(8) The solicitor shall not use obscene language or gestures. (Ord. 2006-33, 11/21/06)

9-6-19. Time of day restrictions.

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the solicitor has express prior permission from the resident to do so. (Ord. 2006-33, 11/21/06)

9-6-20. Buyer's right to cancel.

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by §70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any state or federal law modifying or amending such provision. (Ord. 2006-33, 11/21/06)

9-6-21. Penalties.

Any person who violates any term or provision of this Chapter shall be guilty of a class B misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and a jail sentence of not to exceed six months. (Ord. 2006-33, 11/21/06)