

**TITLE 3**

**BUSINESS AND LICENSE REGULATIONS**

Subject	Chapter
Business License Provisions . . . . .	1
Alcoholic Beverages . . . . .	2
Taxes . . . . .	3
Sales And Use Tax . . . . .	3A
Telecommunications Service Providers Tax . . . . .	3B
Solicitors, Canvassers, Peddlers And Itinerant Merchants . . . . .	4
Construction Contractors . . . . .	5
Offensive Businesses And Facilities . . . . .	6

## CHAPTER 1

**BUSINESS LICENSE PROVISIONS**

## SECTION:

- 3-1- 1: Definitions
- 3-1- 2: License Assessor And Collector
- 3-1- 3: Business License Required; Penalty
- 3-1- 4: Application For License
- 3-1- 5: Fee For License
- 3-1- 6: Payment Dates
- 3-1- 7: Certificate Of License
- 3-1- 8: Transfer Of License Prohibited
- 3-1- 9: Branch Establishments
- 3-1-10: Joint Business Licenses
- 3-1-11: Reciprocal Recognition; Delivery Of Goods
- 3-1-12: Exemptions To License
- 3-1-13: Revocation Or Denial Of License

3-1-1: **DEFINITIONS:** As used in this title:

**BUSINESS:** Includes all activities engaged in within the city carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business, unless otherwise specifically provided.

**EACH SEPARATE PLACE OF BUSINESS:** Each separate establishment or place of operation, whether or not operating under the same name, within the city, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the city.

- EMPLOYEE:** The operator or manager of a place of business and any persons employed in the operation of said place of business in any capacity and also any salesperson, agent or independent contractor engaged in the operation of the place of business in any capacity.
- ENGAGING IN BUSINESS:** Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.
- PLACE OF BUSINESS:** Each separate location maintained or operated by the licensee within the city from which business activity is conducted or transacted.
- WHOLESALE:** A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.
- WHOLESALER:** A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale. (1980 Code § 9-111; amd. 2005 Code)
- 3-1-2: LICENSE ASSESSOR AND COLLECTOR:** The city treasurer is designated and appointed as ex officio assessor of license fees for the city. Upon receipt of any application for a license, the city treasurer shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. The city treasurer shall enforce all provisions of this title, and shall cause to be filed complaints against all persons violating any of the provisions of this title. (1980 Code § 9-113; amd. 2005 Code)

**3-1-3: BUSINESS LICENSE REQUIRED; PENALTY:** It shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to transact, engage in or carry on any business, trade, profession or calling, or to operate a vending, pinball or coin operated machine without first receiving the class or type of license required by the city. (1980 Code § 9-112; amd. 2005 Code)

**3-1-4: APPLICATION FOR LICENSE:**

A. Contents: All applications for license shall include:

1. The name of the person desiring a license.
2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.
3. The class of license desired, if such licenses are divided into classes.
4. The place where such business, calling, trade or profession is to be carried on, giving the street number, if the business, calling, trade or profession is to be carried on in any building or enclosure having such number.
5. The period of time for which such license is desired to be issued.

B. Coin Operated Machine Or Device: In the event that the license application relates to a coin operated machine or device, the application shall identify the machine or device to which it applies and the location thereof. (1980 Code § 9-116)

**3-1-5: FEE FOR LICENSE:**

A. Schedule: The business, location, trade, calling or profession of every person engaged in a business in the city shall pay an annual license fee in such amount as established by resolution of the city council. (Ord. 9-211, eff. 1-1-1984; amd. 2005 Code)

B. Interstate Commerce: None of the license taxes provided for by this section shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon

such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of facts from which he shall determine whether the tax fixed by this section is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the city council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the city council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the city council shall order a refund of the amount over and above the tax fixed by the city council. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature. (1980 Code § 9-125)

- 3-1-6:       **PAYMENT DATES:** All license fees shall be due and payable as follows, except as may be otherwise provided:
- A.    **Payable:** Annual fees shall be payable before each calendar year, in advance. The annual license shall date from January 1 of each year and shall expire on December 31 of each year.
  - B.    **Due:** Annual fees shall be due on January 1 of each calendar year and shall become delinquent if not paid by February 1 of each year.
  - C.    **Issued After July 1:** One-half ( $\frac{1}{2}$ ) of the annual fee shall be payable for all licenses issued by the city pursuant to applications made after July 1 of each year, and licenses issued after July 1 shall expire on January 1 of the year following. Payment shall be due upon the date of application approval. (1980 Code § 9-114)
  - D.    **Penalty For Late Payment:** If any license fee is not paid within thirty (30) days of the due date, a penalty of ten percent (10%) of the

amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full. (1980 Code § 9-115)

**3-1-7: CERTIFICATE OF LICENSE:**

**A. Contents:** All certificates of license shall be signed by the mayor, attested by the city recorder, and shall contain the following information:

1. **Name:** The name of the person to whom such certificate has been issued.

2. **Amount:** The amount paid.

3. **Type:** The type of license and the class of such license, if licenses are divided into classes.

4. **Term:** The term of the license with the commencing date and the date of its expiration.

5. **Location:** The place where such business, calling, trade or profession is to be conducted. (1980 Code § 9-117)

**B. Display:**

1. **Required:** Every certificate of license issued under this chapter shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person, ready to be shown upon request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

2. **Coin Operated Machine:** In the event the license is for a coin operated machine or device, the certificate shall be attached or

displayed in the immediate vicinity of the machine for which it has been issued. (1980 Code § 9-118)

**3-1-8: TRANSFER OF LICENSE PROHIBITED:** No license granted or issued under any ordinance of the city shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named, unless by permission of the city council. (1980 Code § 9-119)

**3-1-9: BRANCH ESTABLISHMENTS:** A separate license must be obtained for each separate place of business in the city and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this chapter shall not be deemed to be separate places of business or branch establishments. (1980 Code § 9-121)

**3-1-10: JOINT BUSINESS LICENSES:** Whenever any person is engaged in two (2) or more businesses at the same location within the city, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business. (1980 Code § 9-122)

**3-1-11: RECIPROCAL RECOGNITION; DELIVERY OF GOODS:**

A. Exceptions: No license shall be required for operation of any vehicle or equipment in the city when:

1. Such vehicle is merely passing through the city.

2. Such vehicle is used exclusively in intercity or interstate commerce.

B. **Delivery Of Property:** No license shall be required by this chapter of any person whose only business activity in the city is the mere delivery in the city of property sold by him at a regular place of business maintained by him outside the city where:

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

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

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

4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

C. **Certification Of Section:** The city recorder shall, at the request of any person, certify a copy of this section to any municipality or county of the state to which a copy has not previously been certified. (1980 Code § 9-123)

**3-1-12: EXEMPTIONS TO LICENSE:**

A. **Tax Exempt Businesses:** No license fee shall be imposed under section 3-1-5 of this chapter on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and the state, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state; nor shall any license fee be imposed upon any person not maintaining a place of business within the city who has paid a like or



similar license tax or fee to some other taxing unit within the state and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the city and doing business in such taxing unit.

- B. **Reciprocal Agreements With Other Agencies:** The license assessor and collector may, with approval of the city council, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A of this section. (1980 Code § 9-124)

**3-1-13: REVOCATION OR DENIAL OF LICENSE:**

- A. **Failure To Comply; Unlawful Activities:** Unless otherwise provided, any license issued pursuant to the provisions of this code or of any ordinance of the city may be revoked and any application denied by the city council because of:
1. The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the city.
  2. Unlawful activities conducted or permitted on the premises where the business is conducted.
- B. **Notice To Licensee:** Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the city council intends to revoke the business license or deny the application to renew, together with the reason or reasons therefor, at a regular or special meeting of the city council (which shall be at least 10 days and not more than 30 days from the date notice is sent), and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross examine witnesses and to present evidence as to why the license should not be revoked or the application denied.
- C. **Not Applicable To Businesses Not Previously Licensed:** The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the city, and such applicants need only be informed that their application has been denied. (1980 Code § 9-120)

## CHAPTER 2

**ALCOHOLIC BEVERAGES**

## SECTION:

- 3-2- 1: State Statute Adopted
- 3-2- 2: Application For License And Renewal License
- 3-2- 3: Fees
- 3-2- 4: Referral To Chief Of Police
- 3-2- 5: Bond Required
- 3-2- 6: Department Of Health Permit
- 3-2- 7: Alcoholic Training And Education
- 3-2- 8: Classifications Of Licenses
- 3-2- 9: Purchase Of Alcoholic Beverages For Resale
- 3-2-10: Separate License For Each Place Of Business; Display
- 3-2-11: License Not Transferable
- 3-2-12: Restrictions
- 3-2-13: Inspection Of Premises
- 3-2-14: Disqualification For Conviction Of Crime
- 3-2-15: Revocation Or Suspension
- 3-2-16: Penalty

3-2-1: **STATE STATUTE ADOPTED:** Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah alcoholic beverage control act<sup>1</sup>, as amended, are hereby adopted by the city. Any and all violations thereof shall be considered violations of this chapter and each such violation shall subject the violator thereof to penalty provisions under this chapter if proceeded hereunder. (2005 Code)

3-2-2: **APPLICATION FOR LICENSE AND RENEWAL LICENSE:**

- A. Verified: All applications for alcoholic beverage licenses authorized by this chapter shall be verified and shall be filed with the city

---

1. UCA title 32A.

recorder. The application must state the applicant's name in full, that he understands and has read and complied with the requirements, and that he possesses the qualifications specified in the alcoholic beverage control act and this chapter. If the applicant is a copartnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors, must be stated.

- B. **Subscribed:** The application must be subscribed by the applicant who shall state under oath that the facts therein contained are true.
- C. **Renewal:** All applications for renewal licenses filed by the holders of existing licenses shall be filed with the city recorder at least thirty (30) days prior to the expiration date of the then issued license. Any person who fails to file such application within the time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed for any and all business for the sale of alcoholic beverages until the date of his new license is issued by the city council. (2005 Code)

**3-2-3: FEES:**

- A. **Annual Regulatory License Fee:** In addition to any other business license fee which any person or place of business may be required to pay, there is hereby imposed on the business location of every person engaged in the sale or dispensing of alcoholic beverages an annual regulatory license fee. The amount of the annual regulatory fee will be set by resolution of the city council, according to the license classification.
- B. **License Fee To Accompany Application:** Applications provided for in this chapter shall be accompanied by the fees provided in this section. The fee shall be returned to the applicant if the application is denied. (2005 Code)

**3-2-4: REFERRAL TO CHIEF OF POLICE:** All applications filed in accordance with the provisions of this chapter shall be referred to the chief of police for inspection and report. The chief of police shall, when possible, within seven (7) days after receiving such application make a report to the city council of the general reputation and character of the persons who habitually frequent such place; the nature and kind of business conducted at such place by the applicant, by any other person, or by the applicant at any other place; whether the place is or has been

conducted in a lawful, quiet and orderly manner; the nature and kind of entertainment, if any, at such place; whether gambling is or has been permitted on the premises or by the applicant at any other place; and the proximity of such premises to any school, church, park or library. The chief of police shall also add to such report his recommendation as to whether or not the application should be granted. (2005 Code)

**3-2-5: BOND REQUIRED:**

- A. Compliance Bond: No regulatory license required by this chapter shall be granted by the city council until the applicant shall have filed a compliance bond with the city recorder, in an amount to be determined by the city council and established by resolution. The bond shall be made payable to the city, conditioned upon the licensee's faithful compliance with the alcoholic beverage control act and the ordinances of the city.
- B. Failure To Maintain Valid Bond: If the licensee fails to maintain a valid bond, payable to the city, the alcoholic beverage license shall be immediately suspended until such time as a valid bond is obtained. Failure to obtain a bond within thirty (30) days of notification by the city of the delinquency shall result in the automatic revocation of the city alcoholic beverage license.
- C. Withdrawal Of Bond Restricted: No part of the bond may be withdrawn until the alcoholic beverage license has been in effect for a period of at least five (5) years, after which time the city may elect to waive continuance of the bond, if it is determined that the licensee has demonstrated faithful compliance with the laws of the state and the ordinances of the city. Persons who have been granted and maintained a city beer license for at least three (3) years prior to the passage of the ordinance codified in this chapter, and who have subsequently demonstrated faithful compliance with the laws of the state and city ordinances, shall be exempted from the bond requirement unless the license has been allowed to expire. (2005 Code)

**3-2-6: DEPARTMENT OF HEALTH PERMIT:** No license under this chapter shall be issued until the applicant therefor shall have first procured from the applicable health department a permit which shall show that the premises to be licensed is in a sanitary condition and that the equipment used in the storage, distribution or sale of alcoholic beverages

complies with all the health regulations of the city and the state. (2005 Code)

**3-2-7: ALCOHOLIC TRAINING AND EDUCATION:**

- A. **Required:** No person shall be granted a license to operate or maintain a trade, profession or calling, the transaction or carrying on of which requires a license, within the city if such person operates an establishment which, as part of its business, serves "alcoholic beverages", as defined in Utah Code Annotated section 32A-1-105(2), to the public for consumption on the premises, unless that person shall show by certificate granted by the state department of alcoholic beverage control, or by adequate proof of the existence of such certificate, that each employee of the business engaging in the serving, selling or furnishing of such alcohol on the premises has completed the alcoholic training and education seminar, as required in Utah Code Annotated section 62A-8-403.
- B. **New Employees:** Every new employee hired after the licensee has been licensed in compliance with subsection A of this section, who is required to complete this seminar, shall complete the seminar within six (6) months of commencing employment. Violation of this section will result in revocation of the license granted, unless compliance is completed within two (2) months of the time that licensee first became aware that such violation occurred. (2005 Code)

**3-2-8: CLASSIFICATIONS OF LICENSES:** Retail alcoholic beverage licenses shall be of the following kinds, shall carry the following privileges, and shall be known as: class A beer, class B beer, class C beer and liquor consumption, and temporary beer.

- A. **Class A Beer License:** Class A beer retail licenses shall entitle the licensee to sell beer on the premises, in original sealed containers no larger than two (2) liters, for consumption off the premises, in accordance with the ordinances of the city, provided beer is not sold by minors except under the supervision of a person twenty one (21) years of age or older who is on the premises.
- B. **Class B Beer License:** Class B beer retail licenses shall entitle the licensee to sell beer in the original containers, and on draft, in containers no larger than two (2) liters, for on premises consumption; beer in sealed containers no larger than two (2) liters may be sold

for consumption off premises in accordance with the alcoholic beverage control act, and the ordinances of the city.

- C. **Class C Beer And Liquor Consumption License:** Class C beer and liquor consumption licenses shall entitle restaurant and private club licensees to sell liquor and beer for consumption on the premises, and to sell beer in sealed containers no larger than two (2) liters, for off premises consumption, as specifically defined in, and in accordance with the alcoholic beverage control act.
- D. **Temporary Beer License:** Temporary beer licenses, for sale or dispensing of beer, may be issued for a period of time not to exceed thirty (30) days, and in accordance with the ordinances of the city. (2005 Code)

**3-2-9: PURCHASE OF ALCOHOLIC BEVERAGES FOR RESALE:** It is a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any alcoholic beverage except that which he shall have lawfully purchased, as defined in the alcoholic beverage control act. (2005 Code)

**3-2-10: SEPARATE LICENSE FOR EACH PLACE OF BUSINESS; DISPLAY:** A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the alcoholic beverage control act and the regulations of the alcoholic beverage control commission. (2005 Code)

**3-2-11: LICENSE NOT TRANSFERABLE:** Licenses issued pursuant to this chapter shall not be transferrable, and if revoked by the city council, the fee paid by the licensee to the city for the license shall be forfeited to the city. (2005 Code)

**3-2-12: RESTRICTIONS:** The following restrictions shall apply to all establishments within the city where alcoholic beverages are sold:

**A. Location Of Business; Exception; Variance:**

1. No class B, class C or temporary alcoholic beverage license shall be granted to a business located within six hundred feet (600') of any public or private school, church, public library, public playground or park, measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground or park; and within two hundred feet (200') if measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, school playground or park.

2. No class A alcoholic beverage licenses, for sale of beer for off premises consumption, shall be granted to any business located within six hundred feet (600') of any public or private school or church, measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school or church; and within two hundred feet (200') if measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school or church.

3. If compliance with distance requirements would result in peculiar and exceptional practical difficulties, or exceptional and undue hardships, a variance may be required of the city council. Following a public hearing, a variance may or may not be granted by the city council. Should the city grant a variance for a class B or C license, final authority regarding state licensure would require approval of the variance by the alcoholic beverage control commission.

**B. Conduct Of Employees And Entertainers: Lewd attire and/or sexually oriented conduct of employees and entertainers, as explicitly defined in Utah Code Annotated section 32A-10-206, subsections 10 and 13, are prohibited. Furthermore, entertainers are prohibited in this city from performing unclothed, or in attire, costume or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.**

- C. **Giving, Selling And Providing Alcoholic Beverages To Specific Persons:** It is unlawful for any person to give, sell, or otherwise provide alcoholic beverages for consumption to:
1. Any person under the age of twenty one (21) years;
  2. Any person who is apparently under the influence of intoxicating alcoholic beverages or products or drugs;
  3. Any 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; or
  4. Any person who is a known interdicted person.
- D. **Business Or Premises Where Gasoline Sold:** Only a class A beer license may be granted to any person to sell beer at any business or premises where gasoline for use in motor vehicles is sold.
- E. **Hours Of Alcoholic Beverage Sales:** It shall be unlawful to sell or otherwise furnish or dispose of an alcoholic beverage, whether or not the premises are open to the public, during the following days and hours, according to license classification:
1. **Class A Beer License:** Beer may not be sold between the hours of one o'clock (1:00) A.M. and five o'clock (5:00) A.M.
  2. **Class B Beer License:** Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.
  3. **Class C Beer And Liquor Consumption License:**
    - a. **Restaurants:** Liquor may not be sold or offered for sale on the day of any election until after the polls close, including regular general, regular primary, special statewide, municipal, special district or school elections; or on any other day between the hours of twelve o'clock (12:00) midnight and twelve o'clock (12:00) noon. Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.; and
    - b. **Private Clubs:** Liquor may not be sold or offered for sale on the day of any election until after the polls close, including regular general, regular primary, special statewide, municipal, special district or school elections; or on Sundays and any state or federal legal holiday after twelve o'clock (12:00) midnight and before twelve



o'clock (12:00) noon, or on any other day between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M. Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.

- F. **On Premises Consumption After Hours:** On premises consumption of alcoholic beverages may continue for one hour past the time sales cease. Anyone having a class B beer or class C beer and liquor consumption license, or his agents or employees, shall close the establishment and remove or cause to be removed from the premises all patrons, customers, or individuals not employed on the premises no later than two o'clock (2:00) A.M.
- G. **Unlawful For Patrons To Remain On Premises After Closing:** It shall be unlawful for any class B or class C licensee, or for his agents or employees, to permit any patron, customer, or individual not employed on the premises to remain on such premises after the closing time of two o'clock (2:00) A.M.
- H. **Illumination Of Premises:** Licensed premises shall be kept brightly illuminated at all times while occupied or open for business; no booth, or other type of stall, shall be maintained unless all tables, chairs, and occupants are kept open to full view from the main floor and the entrance of such licensed premises.
- I. **Advertising:** It shall be unlawful to advertise the sale of alcoholic beverages, except as defined in the alcoholic beverage control act.
- J. **Number Of Alcoholic Beverage Licenses:** The total number of businesses licensed to sell alcoholic beverages in the city shall not exceed:
  1. An unlimited number of class A beer licenses.
  2. Four (4) class B beer licenses.
  3. Four (4) class C beer and liquor consumption licenses. (2005 Code)

**3-2-13: INSPECTION OF PREMISES:**

- A. **Premises Subject To Inspection:** All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the city or the alcoholic beverage control commission, or the state board of

health, and every licensee shall, at the request of the board of health furnish to it samples of alcoholic beverages which he shall have for sale.

- B. **Revocation Of License For Violation:** Any license granted pursuant to this chapter may be revoked on a finding by the city council that the licensee has had ten (10) days' or more notice from the board of health that the licensee is violating one or more health ordinances, rules or regulations of the city or of the Utah division of health and has failed to comply with such health ordinance, rules or regulations.
- C. **Closing Of Business:** The city council may direct the chief of police to close down any business licensed under this chapter where the board of health has determined that continued operation of the business presents an imminent danger to the health of the community or persons who may eat or drink at the business. (2005 Code)

**3-2-14: DISQUALIFICATION FOR CONVICTION OF CRIME:** No license shall be granted to any retailer to sell alcoholic beverages within the city if the licensee, a partner, manager, officer, director, managing agent or shareholder with more than twenty percent (20%) stock has been convicted of:

- A. A felony under any federal or state law;
- B. Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages; or
- C. Any crime involving moral turpitude;
- D. Nor shall any license to sell alcoholic beverages be granted to anyone who has violated any provision of the ordinances of the city relating to intoxicating liquors; nor to any individual less than twenty one (21) years of age. (2005 Code)

**3-2-15: REVOCATION OR SUSPENSION:**

- A. **Violations Related To Operation Of Business:** The city council may, after a hearing, revoke or suspend any alcoholic beverage license on a finding by it that the licensee or his officers, agents or employees have violated any provision of this chapter or any ordinance of the city whether now or hereafter enacted which in any way related to the operation of the business or the safety of the public.

- B. Hearing:** A hearing before the city council may be requested by any person:
1. That is denied or refused an alcoholic beverage license by any officer, agent or employee of the city.
  2. Whose alcoholic beverage license is revoked, restricted, qualified or limited from that for which it was first issued.
- C. Request For Hearing:** The request for hearing must be made in writing to the city recorder and made within thirty (30) days following the date notice denying, refusing, revoking, qualifying, restricting or revoking the alcoholic beverage license is mailed by the city to the applicant or license holder at his address as it appears on the application or license.
- D. Notification Of Hearing:** Following receipt of a request for hearing, the city recorder shall inform the person requesting a hearing of the time and place the hearing is to be held. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the city may produce to support its decision and to present his own evidence in support of his contention. The city council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the city council.
- E. No More Than One Hearing:** This section shall not be construed so as to afford any aggrieved party more than one hearing before the city council nor shall the hearing provided in this chapter apply to any criminal complaint or proceeding. (2005 Code)

**3-2-16: PENALTY:**

- A. Sales Without License:** It shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to engage in the business of selling alcoholic beverages at retail without first having procured a license therefor from the city.
- B. Sales After Revocation Of License:** It shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to sell alcoholic beverages after the revocation of the license issued pursuant to this chapter. (2005 Code)

CHAPTER 3

TAXES

ARTICLE A. SALES AND USE TAX

SECTION:

- 3-3A-1: Title
- 3-3A-2: Purpose
- 3-3A-3: Effective Date
- 3-3A-4: Tax Imposed
- 3-3A-5: Penalty

3-3A-1: **TITLE:** This article shall be known as *THE SALES AND USE TAX ORDINANCE OF EAST CARBON CITY*. (Ord. 01-90, 1-23-1990)

3-3A-2: **PURPOSE:**

- A. **Authorization Of Tax:** The forty eighth session of the Utah legislature authorized municipalities of the state to enact sales and use tax ordinances imposing a one percent (1%) tax.
- B. **Tax Established:** It is the purpose of this article to conform the sales and use tax of the city to conform to the requirements of the sales and use tax act, Utah Code Annotated title 59, chapter 12, as currently amended. (Ord. 01-90, 1-23-1990)

3-3A-3: **EFFECTIVE DATE:** This article shall become effective as of one minute after twelve o'clock (12:01) A.M., January 1, 1990. (Ord. 01-90, 1-23-1990)

**3-3A-4: TAX IMPOSED:****A. Imposed:**

1. From and after the effective date hereof, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the city at the rate of one percent (1%).

2. An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property from any retailer on or after the operative date hereof at the rate of one percent (1%) of the sales price of the property.

3. For the purpose of this article, all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out of state destination or to a common carrier for delivery to an out of state designation. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the state tax commission. "Public utilities", as defined by Utah Code Annotated title 54, shall not be obligated to determine the place or places within any county or municipality where public utilities are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the city shall be as determined by the state tax commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

**B. Adoption Of State Codes; Provisions:**

1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the sales tax and use tax act, all of the provisions of Utah Code Annotated title 59, chapter 12, as amended, and in force and effect on the effective date hereof, insofar as they relate to sales taxes, excepting sections 59-12-101 and 59-12-119 thereof, are hereby adopted and made a part of this article as though fully set forth herein.

2. Wherever, and to the extent that in Utah Code Annotated title 59, chapter 12, the state of Utah is named or referred to as the taxing agency, the name of this city shall be substituted therefor. Nothing in this subsection shall be deemed to require substitution of the name of the city for the word "state" when the word is used as part of the title of the state tax commission, or of the constitution of the state,

nor shall the name of the city be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the state tax commission in performing the functions incident to the administration or operation of this article.

3. If an annual license has been issued to a retailer under Utah Code Annotated section 59-12-106, an additional license shall not be required by reason of this section.

4. There shall be excluded from the purchase price paid or charged by which the tax is measured:

a. The amount of any sales or use tax imposed by the state upon a retailer or consumer.

b. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sales transaction to any other municipality and any county in the state under the sales or use tax ordinance enacted by that county or municipality in accordance with the sales and use tax act. (Ord. 01-90, 1-23-1990)

3-3A-5: **PENALTY:** Any person violating any of the provisions of this article shall be deemed guilty of a class B misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 01-90, 1-23-1990; amd. 2005 Code)

CHAPTER 3

TAXES

**ARTICLE B. TELECOMMUNICATIONS SERVICE PROVIDERS TAX**

SECTION:

- 3-3B-1: Definitions
- 3-3B-2: Levy Of Tax
- 3-3B-3: Rate
- 3-3B-4: Rate Limitation And Exemption
- 3-3B-5: Effective Date Of Tax Levy
- 3-3B-6: Interlocal Agreement For Collection
- 3-3B-7: Repeal Of Inconsistent Taxes And Fees

3-3B-1: **DEFINITIONS:** As used in this article:

CITY: East Carbon City, Utah.

COMMISSION: The state tax commission.

CUSTOMER: A. Subject to subsections B and C of this definition, the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

B. For purposes of this article, "customer" means:

1. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

2. If the end user is not the person described in subsection B1 of this definition, the end user of telecommunications service.

C. "Customer" does not include a reseller:

1. Of telecommunications service; or

2. For mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

END USER:

A. The person who uses a telecommunications service.

B. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

GROSS RECEIPTS  
ATTRIBUTED TO THE  
CITY:

Those gross receipts from a transaction for telecommunications services that is located within the city for the purposes of sales and use taxes under Utah Code Annotated title 59, chapter 12, sales and use tax act, and determined in accordance with Utah Code Annotated section 59-12-207.

GROSS RECEIPTS  
FROM  
TELECOMMUNICA-  
TIONS SERVICE:

The revenue that a telecommunications provider receives for telecommunications service rendered, except for amounts collected or paid as:

A. A tax, fee or charge:

1. Imposed by a governmental entity;

2. Separately identified as a tax, fee or charge in the transaction with the customer for the telecommunications service; and

3. Imposed only on a telecommunications provider;



B. Sales and use taxes collected by the telecommunications provider from a customer under Utah Code Annotated title 59, chapter 12, sales and use tax act; or

C. Interest, a fee or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

**MOBILE TELECOMMUNICATIONS SERVICE:**

As defined in the mobile telecommunications sourcing act, 4 United States Code section 124.

**PLACE OF PRIMARY USE:**

A. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

1. The residential street address of the customer; or

2. The primary business street address of the customer; or

B. For mobile telecommunications service, is as defined in the mobile telecommunications sourcing act, 4 United States Code section 124.

**SERVICE ADDRESS:**

Notwithstanding where a call is billed or paid, "service address" means:

A. If the location described in this subsection is known, the location of the telecommunications equipment:

1. To which a call is charged; and

2. From which the call originates or terminates;

B. If the location described in subsection A of this definition is not known but the location

described in this subsection is known, the location of the origination point of the signal of the telecommunications service first identified by:

1. The telecommunications system of the telecommunications provider; or

2. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

C. If the locations described in subsection A or B of this definition are not known, the location of a customer's place of primary use.

**TELECOMMUNICATIONS PROVIDER:**

A. Subject to subsections B and C of this definition, "telecommunications provider" means a person that:

1. Owns, controls, operates or manages a telecommunications service; or

2. Engages in an activity described in subsection A1 of this definition for the shared use with or resale to any person of the telecommunications service.

B. A person described in subsection A of this definition is a "telecommunications provider" whether or not the public service commission of Utah regulates:

1. That person; or

2. The telecommunications service that the person owns, controls, operates or manages.

C. "Telecommunications provider" does not include an aggregator as defined in Utah Code Annotated section 54-8b-2.

**TELECOMMUNICATIONS SERVICE:**

A. "Telephone service", as defined in Utah Code Annotated section 59-12-102, other than mobile

telecommunications service, that originates and terminates within the boundaries of this state; and

B. Mobile telecommunications service, as defined in Utah Code Annotated section 59-12-102:

1. That originates and terminates within the boundaries of one state; and

2. Only to the extent permitted by the mobile telecommunications sourcing act, 4 United States Code section 116 et seq. (Ord. 04-06, 4-27-2004)

**3-3B-2: LEVY OF TAX:** There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to the city. (Ord. 04-06, 4-27-2004)

**3-3B-3: RATE:** The rate of the tax levy shall be four percent (4%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the city, subject to the following: If the location of a transaction is determined to be other than the city, then the rate imposed on the gross receipts for telecommunications services shall be the lower of: a) the rate imposed by the taxing jurisdiction in which the transaction is located; or b) the rate for nonmobile telecommunication services shall be the rate imposed by the municipality in which the customer's service address is located; or for mobile telecommunications service, the rate imposed by the municipality of the customer's primary place of use. (Ord. 04-06, 4-27-2004)

**3-3B-4: RATE LIMITATION AND EXEMPTION:** The rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to the city unless a higher rate is approved by a majority vote of the voters in the city that vote in:

- A. A municipal general election;
- B. A regular general election; or

C. A local special election. (Ord. 04-06, 4-27-2004)

**3-3B-5: EFFECTIVE DATE OF TAX LEVY:** This tax shall be levied beginning the earlier of July 1, 2004, or the first day of any calendar quarter after a seventy five (75) day period beginning on the date the commission received notice pursuant to Utah Code Annotated section 10-1-403 that the city has enacted this article. (Ord. 04-06, 4-27-2004)

**3-3B-6: INTERLOCAL AGREEMENT FOR COLLECTION:** On or before the effective date hereof, the city shall enter into the uniform interlocal agreement with the commission as described in Utah Code Annotated section 10-1-405 for the collection, enforcement and administration of this municipal telecommunications license tax. (Ord. 04-06, 4-27-2004)

**3-3B-7: REPEAL OF INCONSISTENT TAXES AND FEES:**

- A. Any tax or fee previously enacted by the city under authority of Utah Code Annotated section 10-1-203, or Utah Code Annotated title 11, chapter 26, local taxation of utilities limitation, is hereby repealed.
- B. Nothing in this article shall be interpreted to repeal any municipal ordinance or fee which provides that the city may recover from a telecommunications provider the management costs of the city caused by the activities of the telecommunications provider in the rights of way of the city, if the fee is imposed in accordance with Utah Code Annotated section 72-7-102 and is not related to the city's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right of way, nor does this article limit the city's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this article and locate telecommunications facilities, as defined in Utah Code Annotated section 72-7-108, in the city. (Ord. 04-06, 4-27-2004)

CHAPTER 4

**SOLICITORS, CANVASSERS, PEDDLERS  
AND ITINERANT MERCHANTS**

SECTION:

- 3-4- 1: Definitions
- 3-4- 2: License Required
- 3-4- 3: Application For License
- 3-4- 4: Investigation And Issuance Of License
- 3-4- 5: Fees
- 3-4- 6: Exhibit Or Produce License; Expiration
- 3-4- 7: Notice Of Revocation
- 3-4- 8: Revocation After Hearing
- 3-4- 9: Appeal
- 3-4-10: Additional Requirements
- 3-4-11: Exceptions

3-4-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**CANVASSER OR SOLICITOR:**

Any individual whether or not a resident of the city, traveling either by foot, wagon, motor vehicle or other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales; provided, that such definition shall include any person who, for himself, or for another person, firm or corporation, hires,

leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

**PEDDLER:**

Shall include any person, whether or not a resident of the city traveling by foot, wagon, motor vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall see or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance; and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter. The word "peddler" shall include the words "hawker" and "huckster".

**TRANSIENT MERCHANT, ITINERANT MERCHANT OR ITINERANT VENDOR:**

Any person, firm or corporation, whether as owner, agent, cosignee or employee, whether or not a resident of the city, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader,

merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (1980 Code § 9-452)

**3-4-2: LICENSE REQUIRED:** It shall be unlawful for:

- A. **Transient Merchant, Itinerant Merchant Or Vendor:** A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefor in compliance with the provisions of this chapter.
- B. **Peddler:** Any person to engage in the business of peddler without first obtaining a license therefor as provided in this chapter.
- C. **Solicitor Or Canvasser:** Any solicitor or canvasser to engage in such business without first obtaining a license therefor in compliance with the provisions of this chapter. (1980 Code § 9-451; amd. 2005 Code)

**3-4-3: APPLICATION FOR LICENSE:** Applicants for a licenses under this chapter shall file a sworn application in writing signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the city recorder, which shall give the following information:

- A. The name of the applicant and if the applicant is an employee or agent of a corporation, the name of the corporation.
- B. The address of the applicant and if the applicant is an agent or employee of a corporation, the address of the corporation.
- C. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
- D. If the applicant is employed by or an agent of another person, the name and permanent address of such other person.
- E. The length of time for which the applicant desires to engage in business within the city.

- F. The places within the city where the applicant proposes to carry on his or her business.
- G. A list of the other municipalities in which the applicant has engaged in business within the six (6) month period preceding the date of the application.
- H. A photograph of the applicant, taken within six (6) months immediately prior to the date of filing the application, which photograph shall be two inches by two inches (2" x 2"), showing the head and shoulders of the applicant in a clear and distinguishing manner.
- I. A statement as to whether or not the applicant, or any of his employers have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- J. If the applicant desires to sell fresh vegetables, fruits, meats or other foodstuffs, a statement by a reputable physician of the state, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of infectious, contagious or communicable diseases.
- K. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the state. (1980 Code § 9-453; amd. 2005 Code)

**3-4-4: INVESTIGATION AND ISSUANCE OF LICENSE:**

- A. **Referral To Chief Of Police:** Upon receiving the application, the city recorder shall refer it to the chief of police, who shall cause such investigation of the applicant's business and moral character to be made as it deems reasonable and necessary for the protection of the public good.
- B. **Unsatisfactory Result Of Investigation:** If, as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse such upon the application, together with a statement of its reasons therefor, and return the application to the city recorder who shall notify the applicant that his application has been disapproved and that no license will be issued.



- C. **Satisfactory Result Of Investigation:** If, as a result of such investigation, the character and business responsibility of the applicant is found to be satisfactory, the chief of police shall endorse such upon the application and return it to the city recorder who shall, upon payment of the prescribed license fee, deliver to the applicant his license and issue a license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee and the kind of goods to be sold pursuant to the application, together with an expiration date. (1980 Code § 9-454; amd. 2005 Code)

3-4-5: **FEES:**

- A. **Established:** The license fee which shall be charged by the city recorder for any license issued pursuant to this chapter shall be in such amount as established by resolution of the city council.
- B. **Interstate Commerce:** None of the license taxes provided for by this section shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the tax fixed by this section is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the city council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the city council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the city council shall order a refund of the amount over and above the tax fixed by the city council. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will

assure that the fee assessed shall be uniform with that assessed on businesses of like nature. (1980 Code § 9-455; amd. 2005 Code)

**3-4-6: EXHIBIT OR PRODUCE LICENSE; EXPIRATION:**

- A. Exhibit License: Any person licensed pursuant to this chapter shall exhibit such license at the request of any citizen of the city.
- B. Produce License Upon Request: It shall be the duty of any law enforcement official to require any person seen soliciting, canvassing or peddling, and who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this chapter.
- C. Expiration Of License: All licenses issued pursuant to this chapter shall expire on the date specified on the license. (1980 Code § 9-456; amd. 2005 Code)

**3-4-7: NOTICE OF REVOCATION:** Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address or at the address shown on his application. The hearing and notice shall in all other aspects substantially comply with section 1-4-3 of this code. (1980 Code § 9-456)

**3-4-8: REVOCATION AFTER HEARING:** Licenses issued pursuant to this chapter may be revoked by the chief of police or the city recorder, after notice and hearing, for any of the following causes:

- A. Fraud, misrepresentation or a false statement contained in the application for the license.
- B. Fraud, misrepresentation or a false statement made in the course of carrying on his business as solicitor, canvasser, peddler or itinerant merchant.
- C. Any violation of this chapter.
- D. Conviction of any crime or misdemeanor involving moral turpitude.

- E. Conducting the business of a solicitor, canvasser, peddler or itinerant merchant in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (1980 Code § 9-456; amd. 2005 Code)

3-4-9: **APPEAL:** Any person aggrieved by the action of the chief of police or the city recorder in the denial of a license issued pursuant to this chapter, or by the action of the city council, may file an appeal. Such appeal shall be taken by filing with the city council within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address or address on the business application, a written statement setting forth fully the grounds for the appeal. A time and place for the hearing on such appeal and notice of such hearing shall be set and given to the applicant in the same manner as provided in section 3-4-7 of this chapter. (1980 Code § 9-456)

3-4-10: **ADDITIONAL REQUIREMENTS:** This chapter shall not be construed so as to waive the provisions and requirements of any other ordinance of the city and the requirements and fees required herein shall be in addition to any other requirements and fees of any other ordinance of the city. (1980 Code § 9-457)

3-4-11: **EXCEPTIONS:** The provisions of this chapter shall not apply to any individual who is, at the time he is engaged in any activity which would otherwise require licensing by this chapter, engaged in an activity which is authorized by any church or charity which has a permanent structure located within the state, provided such church or charity has had such permanent structure for at least six (6) months prior to the date when the individual engaged in the activity would otherwise require licensing by this chapter. (1980 Code § 9-458)

## CHAPTER 5

**CONSTRUCTION CONTRACTORS**

## SECTION:

- 3-5-1: Purpose
- 3-5-2: Definitions
- 3-5-3: Requirements
- 3-5-4: Registration To Engage In Business
- 3-5-5: Regulations
- 3-5-6: Records Maintained; Inspection

3-5-1: **PURPOSE:** The purpose of this chapter is to establish a system of imposing license fees upon persons engaging in business within the limits of the city as contractors. The licenses are designed to be determined upon the basis of each contract or job being performed. It is the opinion of the city council that this method of determining the amount of fee will result in fair taxation and will not discriminate against the contractor who performs only a few jobs within the city limits as distinguished from the contractor who performs many. (1980 Code § 9-431)

3-5-2: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**CONTRACTOR:** Any person, firm, copartnership, corporation, association or other organization, or any combination thereof, who for a fixed sum, price, fee, percentage or other compensation other than wages, undertakes any building, highway, road, railroad, excavation or other structure, project, development, or improvement, other than to personality, or any part thereof; provided, that the term "contractor", as used in this chapter, shall include anyone who builds

more than one structure on his own property during any one year for the purpose of sale and shall include subcontractors, but shall not include anyone who merely furnishes materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the "contractor", as herein defined.

**TYPES OF CONTRACTORS:**

As an illustrative list of contractors subject to the provisions of this chapter, but not in limitation thereof, the following occupations are subject to this chapter: general contractors, specialty contractors of all kinds, such as, but not limited to, those engaged in the business of installing, repairing or otherwise performing services in connection with: acoustical tile and roof decking; awnings, storm doors and windows; air conditioning, dry heating, sheet metal; boilers, steam fitting; carpentry; cement and concrete; ceramic tile; cabinet and millwork; composition floor, countertops, tile; carpet; dry-wall; elevator installation; electrical; excavating and grading; fencing; floor coverings; fire prevention (structural); furnaces and burners; glazing; industrial piping; iron and bronze (ornamental); insulation; landscaping; lathing; lawn sprinklers; masonry; mosaic tile and terazzo; overhead doors; painting and paper hanging; pest control (structural); plastering; plumbing and wet heating; roofing and siding; swimming pool; signs, stone masonry; sewer installation; steel reinforcing and erection; tanks (structural); waterproofing; weather stripping; welding; wrecking and demolition; wood floor laying and finishing. (1980 Code § 9-432)

**3-5-3: REQUIREMENTS:** Any person desiring to engage in business as a contractor within the corporate limits of the city must comply with the two (2) following requirements:

A. **Registration:** Prior to engaging in any subject business activity during any calendar year, he must register for the calendar year as a

contractor by completing and filing a registration form in the office of the city recorder.

- B. License: Prior to the performance of any services in connection with any specific contract or job, the person shall secure a license to engage in the performance of service connected with said specific job or contract from the office of the city recorder. (1980 Code § 9-433)

3-5-4: **REGISTRATION TO ENGAGE IN BUSINESS:** Any person desiring to engage in business as a contractor shall complete and file in the office of the city recorder a registration form provided to him by the city which shall show:

- A. The name of the contractor.
- B. The address and telephone number of the contractor.
- C. The type of organization, e.g., corporation, partnership or sole proprietor.
- D. If a partnership or a corporation or other artificial person, the name, address and telephone number of the person responsible for the functions of the organization:
1. Whether or not licensed under the contractor's license law of the state; if so, the license number of the contractor.
  2. Type of business in which registrant seeks to engage, e.g., general contractor or one of the specialty contractors.
  3. Such other information as the city council may by regulation require. (1980 Code § 9-434)

3-5-5: **REGULATIONS:** The city council may adopt such regulations as in its opinion are necessary to implement this chapter and the objectives thereof. (1980 Code § 9-438)

3-5-6: **RECORDS MAINTAINED; INSPECTION:** All persons registered pursuant to this chapter for the privilege of doing business as contractors, and all persons who engage in doing business as

contractors, shall maintain records of all services performed by them as contractors within the corporate limits of the city. The records shall disclose the person for whom the services are performed and the contract price or charge made for the services and such other information as the city council may, by regulation, require. The persons shall maintain such records at their office or principal place of business and shall permit officials or agents of the city to inspect said records for the purpose of determining whether or not said persons have complied with the requirements of this chapter. (1980 Code § 9-437)

## CHAPTER 6

**OFFENSIVE BUSINESSES AND FACILITIES**

## SECTION:

- 3-6-1: Defined
- 3-6-2: Permit Required
- 3-6-3: Application For Permit
- 3-6-4: Issuance Of Permit
- 3-6-5: Control Of Animal And Fowl Facilities
- 3-6-6: Existing Businesses And Facilities

3-6-1: **DEFINED:** "Offensive businesses", within the meaning of this chapter, shall include, but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughter houses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases or noises. (1980 Code § 10-241B)

3-6-2: **PERMIT REQUIRED:** No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits of the city without first filing an application for a permit to do so with the city recorder. (1980 Code § 10-241A)

3-6-3: **APPLICATION FOR PERMIT:** The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control, or modify the emission by the business of the undesirable odors, fumes, noises, and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive. (1980 Code § 10-241C)



**3-6-4: ISSUANCE OF PERMIT:**

- A. **Report And Recommendation:** The city recorder shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the district health department and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the city council. The city council, after review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the city council may:
1. Deny the application.
  2. Recommend a modification thereof.
  3. Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the city council with reference to controlling the offensive features of the business.
- B. **Revocation Of Permit:** In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the city council at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.
- C. **Modification Of Permit:** The city council shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good. (1980 Code § 10-242)

**3-6-5: CONTROL OF ANIMAL AND FOWL FACILITIES:**

- A. **Location And Management:** The city council shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the city and may compel the owner of any pigsty, privy, barn corral, fur bearing animal farm, feed yard, poultry farm, or other unwholesome or nauseous house or place to cleanse, abate or remove the same.
- B. **Examination Of Operation:** The city council may, on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the

purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.

- C. **Notification Of Abatement:** In the event that the city council decides that the business or facility should be abated, removed, or controlled, it shall notify the owner or operator of the business or facility of such fact.
- D. **Hearing; Limited Permit:** After a hearing, the city council may issue a limited permit wherein it may prescribe the specifications and standard which must be followed by the business or facility in order to be permitted to continue in operation.
- E. **Abatement Or Removal:** Upon a determination by the city council that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the city council shall have power to bring all necessary legal proceedings to force removal, abatement or adherence to standards. (1980 Code § 10-244; amd. 2005 Code)

**3-6-6: EXISTING BUSINESSES AND FACILITIES:**

- A. **Investigation By City Council:** The city council may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the city limits. If the city council determines that the continuation of the business or facility has become a nuisance to persons situated within the city limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases, and noise, it shall notify the owner or operator thereof that the city council is considering revoking or modifying the operator's permit.
- B. **Conform To Standards And Specifications:** If the city council decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its permit to engage thereafter in the business or activity. (1980 Code § 10-243)