

TITLE 15. LICENSES

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Chapter 1. General Provisions

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15-1-1 Definitions. The following definitions shall be applicable throughout this Title unless a different

meaning is clearly intended.

Alcoholic Beverage Licenses means Class ‘A’, Class ‘B’, Class ‘C’, beer licenses, nonprofit club licenses or liquor consumption licenses as defined in Chapter 3 of this Title.

Applicant means any person applying for any license provided for in the Title. If the person is a partnership or corporation, then each partner, officer or director is considered an applicant and must qualify accordingly.

Application means a formal written request for the issuance of any license permitted under this Title.

Authorized Officers means those persons authorized by the City or other entities to inspect businesses and enforce the provisions of this Title or other applicable regulations, including peace officers, ordinance enforcement officers, and employees of the Health Department, Fire Department, Community Development Department, City Attorney’s Office or the City Manager.

Business means and includes all trades, professions, occupations, or activities engaged in within Clinton 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.

Business License Official means the individual or his/her designee who is in the Community Development Department who oversees business licensing.

City spelled with a capital “C” means Clinton City.

City Attorney’s Office means the contract attorney serving Clinton City.

City Manager means the chief executive officer of Clinton City.

City Recorder means the Clinton City Recorder.

Community Development Department means the Community Development Department of Clinton City to include the functions of Building Inspection, Business License, Planning, and other functions assigned to the Department.

Consolidated Fee Schedule means the schedule of fees adopted each year by resolution of the Clinton City Council setting forth the various fees charged by the City.

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

Engaging in Business includes, but is not limited to the sale of real or personal property at retail or

wholesale, the bartering or trading of property or services, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

Fire Department means the Clinton City Fire Department.

Health Department means the Davis County Health Department.

Hearing Board shall mean each and every member of the License Hearing Board of Clinton City. (Chapter 15-4)

License Official means Business License Official.

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

Person means any natural person, partnership, joint venture, society, association, club, trustee, trust, or corporation, or any officer, agent, employee, factor, or other personal representative of any thereof, in any capacity, acting either for himself or for any other natural person under either personal appointment or pursuant to law.

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

Police Department means the Clinton City Police Department.

Premises means any land, structure, place, item of equipment or appurtenance connected or used therewith in any business, and also, any personal property which is either affixed to or is otherwise used in connection with the operation of any business.

Specified Anatomical Areas means:

(1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities means;

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic region or female breast.

Specified Sexual Activities means:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic region or female breast.

Temporary Interior Business means any business which intends to conduct business at any single place of business for 90 days or less, and whose place of business is located within the building confines of a licensed non-temporary business.

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

History: 3/80, 12/97, 01/99

15-1-2 Business License Required.

(1) Unless otherwise provided, it shall be unlawful for any person to engage in any business within the City without first having obtained a business license pursuant to this Title. A separate license shall be required for each type of business defined herein and for each place of business. Each day of noncompliance shall constitute a separate violation.

(2) In addition to any criminal prosecution or civil proceedings, if any person found violating this section later applies for a license and if a license is granted, the penalty fees shall be as follows:

(a) Penalty fees shall be 100 percent of the license fees for the first year, and the business shall pay an additional penalty for each year or portion of a year in which the business operated without a license. The penalty fee for each year or portion of a year, other than the first year, without a license shall be an amount equal to 125 percent of the current license fees.

(b) The City Manager may reduce or waive the penalty fees to be paid by a business operating without a license, for the first year, for the purpose of encouraging unlicensed business to properly license.

History: 3/80, 12/97, 01/99

15-1-3 Exemptions from Business License Requirements.

(1) Upon the written request of a majority of the members of the City Council filed with the City Recorder and Business License Official, any license provided for in this title shall be issued free of charge

to any person suffering from any physical or mental disability, or of an age that shall render him incapable of performing manual labor; to any poor person with extraordinary problems of support; or, to any number of persons working solely for the benefit of any worthy charity or for a worthy public enterprise.

(2) Vegetable and fruit stands which sell produce grown solely on the seller's property which is located in Clinton City shall be exempt from all requirements imposed by this Title.

History: 3/80, 01/99

15-1-4 Business License Official - Duties and Responsibilities. It shall be the duty and responsibility of the Business License Official to:

- (1) Enforce the provisions of this Title;
- (2) Collect all business license fees and all alcoholic beverage license fees;
- (3) Process all applications and renewals of all licenses provided for in this Title;
- (4) Obtain the necessary approvals from the various City departments and divisions before issuing any business licenses or alcoholic beverage licenses;
- (5) Deny, suspend or revoke licenses as provided in Chapter 4 of this Title; and
- (6) Maintain a record and list of all licenses issued.

History: 01/99

15-1-5 Business License Application. The Clinton City Business License Application shall be in such format and require such information as the License Official deems necessary to enforce this Title, including but not limited to:

- (1) The name, social security number, date of birth and home address of the person applying for the license;
- (2) The registered name of the business, if applicable;
- (3) The federal tax number of the corporation, if applicable;
- (4) The type of business to be engaged in;
- (5) The class of license desired, if the type of license is divided into classes;
- (6) The location of the place of business;
- (7) A state tax number, if applicable;
- (8) A state contractor's number, if applicable;
- (9) Proof that the business is state licensed or registered, if applicable; and
- (10) A space for the applicant or applicant's authorized agent to sign under penalty of law that all

of the information contained therein is true.

History: 01/99

15-1-6 Issuance of a Business License.

(1) An applicant for a business license shall fill out the application in full and sign it as verification under penalty of law that all information contained therein is true.

(2) The application shall be returned to the Community Development Department along with full payment of all business license fees.

(3) The Business License Official shall submit copies to the Community Development Director, Building Inspector, Fire Department and Health Department and for certain business where specifically provided for herein, to the Police Department, for their review, unless a specific provision of this Title requires submission to fewer or additional departments, divisions or agencies than those named.

(4) Only after receiving signed, written approval from each of the entities named in this Section, shall the Business License Official be authorized to prepare a certificate of license for issuance.

(5) The certificate of license shall be signed by the License Official and shall contain the following information:

- (a) The person's name to whom the certificate is issued;
- (b) The business name;
- (c) The type of business licensed;
- (d) The date the license was issued;
- (e) The expiration date of the license;
- (f) The address of the place of business licensed; and
- (g) The business license number.

(6) If the business is licensed to conduct more than one type of business, as defined herein, the certificate of license shall state each type of business licensed.

History: 01/99

15-1-7 Renewals of Business Licenses.

(1) Each year, licensees shall renew their business licenses by completing an application for a license renewal signed under penalty of law that all information contained therein is true and returning it, along with the proper fees, to the Community Development Department within the time period set forth in Section 15-1-9-2 below. Renewal applications for businesses which require police checks of the licensees shall be submitted to the Police Department for their approval to ascertain whether the licensee still meets the necessary

qualifications.

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

History: 01/99

15-1-8 Inspections.

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

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

History: 01/99

15-1-9 Payment Dates of Business License Fees.

(1) Business license fees for new businesses shall be due and payable upon making application to the Community Development Department. The application shall not be processed until the fee is paid.

(2) Business license fees for renewal businesses shall be due and payable on or before January 1 of each year and shall be delinquent after February 1 of each year. All license fees not paid prior to February 1, shall have a penalty of 50 percent of the amount of the fee added to the original amount due. If the fee plus penalty is still not paid by March 1, a penalty of 75 percent of the amount of the fee shall be added to the original amount due. If the fee plus penalty is still not paid by April 1, then the business shall be considered to be operating without a business license in violation of this Chapter, subject to criminal prosecution for every day of operation after January 1, if a license is issued thereafter the fee shall be double.

(3) Penalty fees may be appealed to the City Manager who may, for good cause shown, refund all or part of the applicable penalty fee that has been paid. The decision of the City Manager may be appealed to the Business License Hearing Board as set forth in Chapter 4 of this Title. The Business License

Hearing Board may, upon good cause, recommend that all or part of the penalty fee be refunded.

History: 01/99, 3/05, 2/07

15-1-10 Term of Business Licenses.

(1) All business licenses, except temporary interior business licenses, shall expire each year at midnight on the last day of December.

(2) Temporary interior business licenses shall expire on the 90th day from the date the temporary interior business license was issued.

History: 01/99

15-1-11 Business License Fees. All business license fees shall be those set forth in the Consolidated Fee Schedule. The total fee required each year for each type of business consists of the base fee plus the variable fees and regulatory fees.

(1) The base fees are categorized in the Consolidated Fee Schedule by type of business. The definition of each type of business and the specific regulations governing them are found in this Title. If a particular type of business is not listed in the Consolidated Fee Schedule, then its base fee shall be the general business license base fee as set forth in the Consolidated Fee Schedule.

(2) The variable and regulatory fees for each business, regardless of whether it is defined in this Chapter, are set forth in the Consolidated Fee Schedule.

History: 3/80, 12/97, 01/99

15-1-12 Exemptions to Business License Fees Requirements.

(1) A business license fee shall not be imposed on any person engaged in business solely for 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 of Utah, nor shall any business license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah.

(2) Any business exempt from paying the license fee as provided in this Section shall still comply with all other requirements of this Title.

History: 03/80, 01/99

15-1-13 Transfer of License Restricted.

(1) Business licenses may be transferred to another person for the same location upon the new person making application and being able to qualify for such license under this Title and paying the business

license transfer fee as set forth in the Consolidated Fee Schedule.

(2) A business license may not be transferred to a new location within the City. Each location shall be applied for and all appropriate fees shall be paid for each location.

History: 03/80, 12/97, 01/99

15-1-14 Display of Licenses.

(1) Every certificate of license for a business 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 the certificate of license has expired, it shall be removed and no certificate of license which is not in force and effect shall be permitted to remain posted 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 on 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) 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.

History: 03/80, 01/99

15-1-15 Reciprocal Recognition of Business Licenses.

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

(a) Such vehicle is merely passing through the City; or

(b) Such vehicle is used exclusively in interstate commerce.

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

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

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

(c) Neither the property delivered nor any of the facilities by which it was manufactured, produced or

processed are subject to inspection by authority of this City for compliance with health or sanitary standards prescribed by this City; and

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

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

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

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

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

History: 01/99

15-1-16 Constructive Notice of Time Periods.

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

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

History: 01/99

15-1-17 Temporary Interior Business Licenses.

(1) Temporary interior businesses, as defined in this Title, may receive temporary interior business

licenses. Temporary interior business applicants and licensees shall be subject to all requirements of this Title, except that the fee for a temporary interior business license shall be one-half the regular general business license base fee.

(2) A temporary interior business licensee may not apply for a new temporary interior business license within six months following the expiration of a previous temporary interior business license.

(3) The following businesses are not eligible for temporary interior business licenses:

(a) Home occupations;

(b) Any business, whether or not it is temporary, which is specifically regulated or licensed under any chapter or section of this Title;

(c) Any business, whether or not it is temporary, which requires a conditional use permit.

(4) In the event of a conflict between this section and any specific regulation or fee contained in this Title or the Consolidated Fee Schedule, the more specific regulation or fee shall apply.

History: 01/99

Chapter 2. Repealed 04/28/09**Chapter 3. Alcoholic Beverage Licenses**

- 15-3-1 Definitions
- 15-3-2 Alcoholic Beverage Licenses Required
- 15-3-3 Alcoholic Beverage License Applications
- 15-3-4 Issuance of an Alcoholic Beverage License
- 15-3-5 Qualification of a Location
- 15-3-6 Qualifications of a Licensee
- 15-3-7 Renewal of Licenses
- 15-3-8 Payment Dates of License Fees
- 15-3-9 Term of Alcoholic Beverage Licenses
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- 15-3-11 Transfer of License Prohibited
- 15-3-12 Display of Licenses
- 15-3-13 Intoxicated Persons
- 15-3-14 Nuisance
- 15-3-15 Lighting and View Requirements
- 15-3-16 Sale and Consumption Hours
- 15-3-17 Regulations Relating to Minors
- 15-3-18 Maintenance of Records by Class 'B' Beer Licensees
- 15-3-19 Unlawful for Persons to Bring, Possess, or Consume Alcoholic Beverages Not Purchased on the Premises
- 15-3-20 Unlawful for Business Licensee to Permit Persons to Bring, Possess, or Consume Alcoholic Beverages Not Purchased on the Premises
- 15-3-21 Denial of an Alcoholic Beverage License
- 15-3-22 Penalty

15-3-1 Definitions.

Alcoholic Beverages means and includes "beer" and "liquor" as they are defined herein.

Beer means any beverage containing not less than one-half of one per centum of alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction of any malted grain, or similar products, and which contains not more than 3.2 per centum of alcohol by weight. Beer may or may not contain hops or other vegetable products. Beer includes ale, stout or porter.

Class 'A' Beer License shall entitle the licensee to sell beer on the licensed premises in original containers of a size not to exceed one quart capacity, for consumption off the premises.

Class 'B' Beer Licenses shall entitle the licensee to sell beer, not to exceed 40 percent of the gross dollar volume from the sale of beer and food for any six-month period during any license year, on the licensed premises of a size not to exceed one quart capacity, for consumption on the licensed premises and to all of the privileges granted to a holder of a Class 'A'

Beer License. Only restaurants shall be entitled to a Class 'B' Beer Licenses.

Class 'C' Beer License shall entitle the licensee to sell beer and/or permit consumption thereof at recreation facilities, excluding public parks. Under this license, no beer shall be sold in the original containers, but must be first emptied into suitable temporary containers. All sales and deliveries under this license shall be made directly to the ultimate consumer. No beer shall be permitted or consumed, except that which is purchased on the licensed premises.

Licensed Premises means any room, enclosure, building, structure or place occupied by a person licensed to sell and/or permit the consumption of alcoholic beverages on such premises under this Chapter.

Liquor means and includes alcohol, or any alcoholic, spirituous, vinous, fermented, malt or other drinks or drinkable liquids, containing more than one-half of one per centum of alcohol by weight; and all mixtures, compounds, or preparations, whether liquid or not, which contain more than one-half of one per centum of alcohol by weight and which are capable of human consumption; except that the term "liquor" shall not include "beer" as herein defined.

Liquor Consumption License for Class 'B' Licensed Premises shall entitle a Class 'B' licensee to permit persons, other than the licensee, to possess and consume, but not hold or store, liquor on the licensed premises subject to applicable provisions of the Liquor Control Act. This License shall not constitute consent of the city for a State Store to be established in a Class 'B' licensed premise for the sale of mini bottles. Such consent shall be obtained from the Planning Commission as a conditional use.

Liquor Consumption License for Class 'C' Licensed Premises shall entitle a Class 'C' licensee to permit persons, other than the licensee, to possess and consume, but not hold or store, liquor on the licensed premises subject to applicable provisions of the Liquor Control Act.

Non Sales Alcoholic Beverage Consumption License shall entitle a licensee to permit persons, other than the licensee, to possess and consume, but not to hold or store, alcoholic beverages on the licensed premises, subject to applicable provisions of the Liquor Control Act and this code. This license shall not be issued in conjunction with a liquor or beer sales license and liquor or beer may not be sold on the premises.

Mini bottles are original, unbroken containers of liquor, the contents of which do not exceed two fluid ounces and wine in the original, unbroken containers,

the contents of which do not exceed one pint.

Minor means any person under the age of 21 years.

Nonprofit Club means a social, recreational, fraternal, athletic, or kindred association incorporated and regulated under the provisions of Chapter 6, Title 16, U.C.A. 1953, as amended.

Nonprofit Club License shall be deemed to be the license provided for in Chapter 10, Title 11, U.C.A. 1953, as amended, which entitles the nonprofit club to hold, store, possess or consume liquor, subject to applicable provisions of the Utah Liquor Control Act. This license shall also constitute consent for the nonprofit club to apply for a State Store license to sell liquor, however, before this license is issued, the applicant shall obtain conditional use approval from the Planning Commission. This license also entitles the licensee to sell beer, on the licensed premises of a size not to exceed one quart capacity, for consumption on the licensed premises and to all of the privileges granted to a holder of a Class 'A' Beer License except such sales shall be limited to members and their guests.

A nuisance means any licensed premise where:

- (1) Alcoholic beverages are sold, kept, bartered, stored, given away or used, contrary to the Liquor Control Act of Utah or this Chapter, or where persons resort for drinking beverages, contrary to the Liquor Control Act of Utah, or of this chapter; or
- (2) Any persons are allowed to perform or simulate sexual intercourse, masturbation, oral copulation, anal copulation, bestiality, flagellation, or any sexual acts prohibited by law; or
- (3) Any persons are allowed to simulate or actually touch, caress or fondle breasts, buttocks, anus or genitalia; or
- (4) Any persons are allowed to actually display or simulate the display of pubic hair, buttocks, vulva, anus, genitalia, or female breasts below a point immediately above the top of the areola; or
- (5) Films, pictures or other visual reproductions are displayed depicting acts which are prohibited in subsections a, b and c above; or
- (6) Minors are permitted to purchase or drink alcoholic beverages; or
- (7) Laws or ordinances are violated by the licensee or the licensee allows patrons to violate such laws or ordinances upon such premises or, upon leaving such premises, perform acts or omissions which tend to negatively affect or place in jeopardy the public health, peace, morals, welfare, comfort, or safety of patrons or citizens or Clinton City; or

(8) Paid or unpaid dancers, performers or entertainers mingle, perform, dance or provide services in violation of this Title of the Clinton City Code; or

(9) Any violation of the terms of this Chapter or breach of the public peace or morals takes place.

Restaurant means a place of business where a variety of hot food is prepared and cooked and complete meals are served to the general public in connection with indoor dining accommodations.

Sell or To Sell 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 to allow to be procured for any other person, and "sale" when so used shall include every act of selling as above defined.

State Store means an outlet for the sale of liquor located on premises owned or leased by the State of Utah.

History: 04/84, 09/84, 01/99

15-3-2 Alcoholic Beverage Licenses Required.

(1) It shall be unlawful for any person to sell an alcoholic beverage at retail and/or permit the consumption of any alcoholic beverage on any business premises, unless such person is licensed for such sale and/or consumption. A separate license shall be required for each place of business. Each day of noncompliance shall constitute a separate violation.

(2) In addition to any criminal prosecution or civil proceedings, if any person found violating this section later applies for a license and if a license is granted, the license fee for the first year shall be doubled.

History: 04/84, 09/84, 01/99

15-3-3 Alcoholic Beverage License

Applications. The Clinton City Alcohol Beverage License Application shall be in such format and require such information as the Business License Official deems necessary to enforce this Title, including but not limited to:

- (1) The name, social security number, date of birth and home address for applicant;
- (2) The registered name of the proposed licensed premises;
- (3) The Federal Tax No. of the corporation, if applicable;
- (4) The class of license desired;
- (5) The location of the premises to be licensed;

(6) Any convictions for crimes which could disqualify the applicant as licensee; and

(7) A space for the applicant to sign, under penalty of law, certifying that all the information contained therein is true

History: 04/84, 09/84, 01/99

15-3-4 Issuance of an Alcoholic Beverage License.

(1) An applicant for any of the alcohol beverage licenses shall fill out the application in full and sign it, as verification under penalty of law that all information contained therein is true.

(2) All applications for any license defined in this Chapter shall be made pursuant to this section regardless of whether the application is for a new license, or there is a change of ownership or a change of lessees of an existing licensed premise, or an existing licensee is moving his business to another location in the City.

(3) The application shall be returned to the Community Development Department along with full payment of the license fees.

(4) The Community Development Department shall submit copies of the application for review by Community Development Department, Building Division, Fire Department and Police Department. A copy shall be submitted to the County Health Department for review and comment.

(5) Only after receiving signed, written approval from each of the entities named in this Section, shall the Business License Official be authorized to prepare a certificate of license for issuance.

(6) The certificate of license shall be signed by the Business License Official and shall contain the following information:

- (a) Name of the licensee to whom the certificate is issued;
- (b) The type of license issued;
- (c) The expiration date of the license; and
- (d) The address of the place of business licensed.

(7) All applicants who are beginning a new business shall also comply with all applicable business licensing requirements.

History: 01/99

15-3-5 Qualification of a Location. Where the zoning permits the sale of beer and/or alcohol, as stipulated in the Zoning Ordinance of the City of Clinton, the following shall apply:

(1) No retailer shall be established within 600 feet of any public or private school, church, library, public

playground, or park, this distance being measured from the nearest entrance/exit of the retailer by following the shortest ordinary pedestrian route, where sidewalks and crosswalks are available, or the shortest vehicular travel route along a public thoroughfare when no sidewalks and crosswalks are available, to the property boundary of the above listed protected locations, and shall not be any closer than 400 feet measured in a straight line from the nearest entrance/exit of the retailer to the nearest property boundary of the protected location.

(2) The city council may authorize a variance from the distance requirements in subsection one (1) after giving full consideration to all of the attending circumstances, following a public hearing, and where practical in the neighborhood concerned, if after full investigation it concludes that the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships, and the variance can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Utah Liquor Control Act.

History: 04/84, 12/97, 01/99

15-3-6 Qualifications of a Licensee.

(1) A license shall not be granted to any person unless that person shall be of a good moral character and over the age of twenty-one years, or to anyone who has been convicted of a felony or of any violation of any law or ordinance relating to intoxicating liquors, or of drunken driving, or of keeping a gambling or disorderly house, or any ordinance involving moral turpitude, or who has pleaded guilty to or forfeited his bail on a charge of having committed a felony or of having violated any such law or ordinance, or to any partnership, any member of which lacks any of the qualifications herein before in this paragraph set out, or to any corporation, any director, or officer of which lacks any of such qualifications.

(2) Even after meeting the requirements provided for in paragraph 1 above, the applicant shall not receive approval of the Police Department if there are any outstanding warrants on the applicant.

(3) In addition, a license shall not be granted to any person who violates any provision of this Chapter or of this Title.

History: 01/99

15-3-7 Renewal of Licenses.

(1) Each year, licensees shall renew their alcoholic beverage licenses by completing an application for a license renewal signed under penalty of law that all information contained therein is true and returning it along with the proper fees to the Community

Development Department within the time period set forth in Section 15-3-7(2) below. Renewal applications shall be submitted to the Police Department by the Business License Official for their approval to ascertain whether the licensee still meets the necessary qualifications.

(2) Upon receipt of the application, fees, and Police Department approval, the Community Development Department shall be authorized to prepare and issue a certificate of license as provided in this Chapter.

History: 01/99

15-3-8 Payment Dates of License Fees.

(1) Alcohol beverage license fees for new licenses shall be due and payable upon making application to the Community Development Department. The application shall not be processed until the fee is paid.

(2) Alcohol beverage license fees for renewal licenses shall be due and payable on or before July 1 of each year. If the fee is not paid prior to August 1, a 50% penalty of the amount of the fee shall be added to the original amount due. If the fee is still not paid prior to September 1, a 75% penalty of the amount of the fee shall be added to the original amount due. If the fee plus penalty is still not paid prior to October 1, then the business shall be considered to be operating without a license in violation of Section 15-3-2 subject to criminal prosecution for every day of operation on or after October 1. If a license is not renewed prior to October 1, as set forth in this Section, and the business applies for an alcohol license on or after October 1, the application shall be for a new license and the fee shall be doubled.

(3) Fees associated with the application for an alcohol beverage license are non-refundable once the Building License Official has started the processing of a license as outlined in 15-3-4(4) and 15-3-6(1).

History: 01/99

15-3-9 Term of Alcoholic Beverage Licenses. All alcoholic beverage licenses, no matter when issued, shall expire on June 30 each year.

History: 01/99

15-3-10 Alcoholic Beverage License Fees.

(1) All alcoholic beverage license fees shall be set forth in the Consolidated Fee Schedule.

(2) The total alcoholic beverage license fee shall be due for new applications made between July 1 and September 30, three-quarters (3/4) of the total fee shall be due for new applications made between October 1 and December 31, one-half (1/2) the total fee shall be due for new applications made between January 1 and March 31 and one-quarter (1/4) of the

total fee shall be due for new applications made between April 1 and June 30.

History: 01/99

15-3-11 Transfer of License Prohibited.

(1) Alcoholic beverage licenses are not transferable or assignable to any other person. Each person must make application and pay all fees.

(2) Alcoholic beverage licenses are not transferable to a new location. A complete application must be made and all fees paid.

History: 04/84, 01/99

15-3-12 Display of Licenses. Every certificate of license issued pursuant to 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 next to the certificate of business license so that the same may be easily seen. When the certificate of license has expired, it shall be removed and no certificate of license which is not in force and effect, shall be permitted to remain posted within the place of business.

History: 01/99

15-3-13 Intoxicated Persons.

(1) It shall be unlawful and shall constitute a strict liability offense for any person to sell alcoholic beverages to any intoxicated person or to any person under the influence of any intoxicating beverage or drug, or to allow any intoxicated person to consume an alcoholic beverage on the licensed premises.

(2) It shall be unlawful and shall constitute a strict liability offense for any licensee to allow intoxicated persons to remain in or about the licensed premises.

History: 04/84, 09/84, 01/99

15-3-14 Nuisance. It shall be unlawful for any licensee to keep or maintain a nuisance, as defined in 15-3-1(15) on the licensed premises.

History: 01/99

15-3-15 Lighting and View Requirements. It shall be unlawful for any licensee to own, operate or manage any premises licensed for the sale and/or consumption of alcoholic beverages without complying with the following lighting and view requirements:

(1) During business hours, a minimum of one candle power light measured at a level five feet above the floor shall be maintained.

(2) Enclosed booths, blinds or stalls shall not be erected or maintained.

(3) A clear, unobstructed view of all portions of the interior of any room shall be available at all times

from a point within the licensed premises at or near the main entrance to each such room.

History: 01/99

15-3-16 Sale and Consumption Hours. It shall be unlawful for any licensee to sell, offer to sell, furnish, supply or permit the consumption of alcoholic beverages on any licensed premises during the times and hours set forth below.

(1) Class 'A' licensed premises shall not sell, offer to sell, furnish or supply beer between the hours of 1:00 a.m. and 7:00 a.m. of any day.

(2) Class 'B' and 'C' licensed premises and nonprofit clubs shall not sell, offer to sell, furnish, supply or permit the consumption of beer between the hours of 1:00 a.m. and 10:00 a.m. of any day.

(3) Restaurants which have liquor consumption licenses shall not sell, offer to sell, furnish, supply or permit the consumption of liquor on Saturdays, Sundays and any state or federal legal holiday after 12:00 midnight and before 12:00 noon, on any other day between the hours of 12:00 midnight and 1:00 p.m.; or on the day of any state or national election until after the time when the polls are closed.

(4) Nonprofit clubs shall not sell, offer to sell, furnish, supply or permit the consumption of liquor on Sundays and any state or federal legal holiday between 12:00 midnight and 12:00 noon; on any other day between the hours of 1:00 a.m. and 10:00 a.m.; or on the day of any local, state or national election until after the time when the polls are closed. Unless otherwise prohibited by law, licensed premises may remain open during all hours, provided that alcoholic beverages are not sold, offered for sale, furnished, supplied or consumed during the prohibited hours specified above.

History: 01/99

15-3-17 Regulations Relating to Minors.

(1) It shall be unlawful and shall constitute a strict liability offense for any person to sell any alcoholic beverage to any minor or allow any minor to consume any alcoholic beverage on a premises licensed for the consumption thereon of such beverage. Upon a licensee's conviction for selling or furnishing an alcoholic beverage to a minor or allowing the consumption of an alcoholic beverage by a minor, such license shall be revoked or suspended for a minimum of 30 days.

(2) It shall be unlawful for any minor to purchase, accept, consume, or have in his or her possession any alcoholic beverage, provided, however, that this subparagraph shall not apply to the acceptance of alcoholic beverages by such person for medicinal purposes supplied only by the parent or guardian of

such person or to the administering of such alcoholic beverage by a physician in accordance with the law; provided further, that the provisions of this paragraph prohibiting possession of beer shall not apply to minors who are bona fide employees in Class 'A' licensed premises while in the discharge of their employment therein or thereabouts.

(3) It shall be unlawful and shall constitute an offense of strict liability for any Class 'C' licensee to employ or use the services of any minor in the licensed premises or for any other licensee to employ or use the services of any minor in or on that portion of any licensed premises, during business hours which are primarily designed, intended, and used for the sale and serving of alcoholic beverages for consumption on the premises. Minors may be employed by Class 'B' licensees or nonprofit club licensees as entertainers, kitchen staff, bus boys, waiters, waitresses, and maintenance personnel, provided such minor employees do not enter on that portion of the premises primarily intended for the sale and consumption of alcoholic beverages and perform all their employment duties on the portions of the premises primarily intended for cooking the meals or for dining. The physical structure of the premises shall be such that no minor employee shall enter the portion of the premises primarily intended for the sale and consumption of alcoholic beverages in the performance of employment duties and such entry by a minor employee is hereby prohibited. This section shall not be construed to allow any minor on that portion of the Class 'B' licensed premise or nonprofit club intended primarily for the sale and consumption of alcoholic beverages for any reason whatsoever.

(4) It shall be unlawful and shall constitute an offense of strict liability for any licensee to permit a minor to enter and remain on the licensed premises or for any minor to enter and remain on a licensed premise or any portion thereof which is intended for the consumption and sale of alcoholic beverages. This section shall not be construed to prohibit minors from eating meals in a restaurant nor to prohibit minors from eating meals in a nonprofit club on that portion of the premises which is primarily intended for the serving of meals, provided such minor is a guest of a club member. Any portion of a nonprofit club which is primarily intended for the serving of meals and which shall admit minors as patrons shall have the dining area clearly designated by signs and by physical barriers or walls which separate persons in the dining area from that portion of the premises intended primarily for the consumption and sale of alcoholic beverages. Restaurants, which have portions of the premises intended primarily for the consumption and sale of alcoholic beverages shall also have the signs and barriers described above. Should minors be admitted, entrance to and exit from

the dining areas shall be by route other than through that portion of the premises primarily intended for consumption and sale of alcoholic beverages.

(5) Before selling any alcoholic beverage to a person or permitting a person to enter any licensed premise or portion thereof where a minor is prohibited, all licensees shall ascertain the age of the person by requiring the person to present a valid driver's license or other form of identification containing a picture of the person, his date of birth, height, weight, and color of hair and eyes.

History: 01/99

15-3-18 Maintenance of Records by Class 'B' Beer Licensees. All holders of a Class 'B' beer license shall maintain records which shall disclose the gross sales of beer and food purchases for the restaurant from all suppliers during the license year. Such records shall be available for inspection and audit by the City at any time during normal business hours after giving reasonable notice and shall be maintained for two years following the expiration of the Class 'B' beer license. If any audit or inspection discloses that the sale of beer on the licensed premises is in excess of 40 percent of the gross dollar volume from the sale of beer and food for any six-month period during any license year, the Class 'B' beer license shall immediately be suspended and shall not be reinstated until the licensee is able to prove to the satisfaction of the City Council that in the future the sale of beer on the licensed premises will not exceed 40 percent of the gross dollar volume from the sale of beer and food.

History: 01/99

15-3-19 Unlawful For Persons to Bring, Possess, or Consume Alcoholic Beverages Not Purchased on the Premises. It shall be unlawful for any person to bring onto the premises any alcoholic beverage or to possess or consume any alcoholic beverage not purchased from the licensee on a Class 'C' beer licensed premises.

History: 01/99

15-3-20 Unlawful for Business Licensee to Permit Persons to Bring, Possess, or Consume Alcoholic Beverages Not Purchased on the Premises.

(1) It shall be unlawful for any business licensee of a premises which is also licensed as a Class 'C' beer licensed premises to not actively enforce Section 15-3-18.

(2) As used in this section "to not actively enforce" shall be demonstrated by any of the following:

(a) Intentionally permitting persons to bring alcoholic beverages onto the premises; or

(b) Knowingly permitting persons to have in their possession or to consume alcoholic beverages which have not been purchased on the premises and failing to take any action to stop said possession or consumption.

(3) It shall be the responsibility of the licensee of a Class 'C' beer licensed premises to notify the patrons of the licensed premises, of the prohibition set forth in Section 15-3-18 above, and that said prohibition will be enforced by the business licensee. Said notice shall consist of the following:

(a) Signs conspicuously posted throughout the licensed premises of a size and in a number sufficient to reasonably assure notification of all patrons; and

(b) By use of other appropriate and reasonable means of communication, which may include, but are not limited to, flyers, loudspeaker, announcements, personal contact, radio or TV advertisements, or printing on admission tickets.

History: 01/99

15-3-21 Denial of an Alcoholic Beverage License. The denial, suspension, or revocation of any license issued pursuant to this Chapter may be appealed as set forth in Chapter 4 of this Title.

History: 04/84, 01/99

15-3-22 Penalty. Violation of any of the provisions of this Chapter shall be a Class B misdemeanor.

History: 07/99

Chapter 4. Denial, Suspension or Revocation of a License

15-4-1	Denial of a Business License or Alcoholic Beverage License
15-4-2	Reasons for Suspension or Revocation
15-4-3	Enforcement
15-4-4	Procedure for Suspension or Revocation
15-4-5	License Hearing Board
15-4-6	Appeal Procedure
15-4-7	Hearing
15-4-8	Decision of the Hearing Board
15-4-9	Appeal of Hearing Board Decision
15-4-10	Licensing After Revocation
15-4-11	Validity of Business License or Alcoholic Beverage License During Appeal
15-4-12	Business Owner Responsible for Concessionaire

15-4-1 Denial of a Business License or Alcoholic Beverage License. Application for a business license or alcoholic beverage license may be denied for any of the following reasons:

- (1) The applicant does not meet the qualifications for a licensee as provided under this Title.
- (2) For a new application, nonpayment of a returned check for the required license fees. For a business license renewal application, nonpayment of the required license fees plus any applicable penalty. For an alcoholic beverage license, nonpayment of the required license fees plus any applicable penalty.
- (3) One of the reviewing departments or divisions of the City provided for in this Title has disapproved the application pursuant to any applicable provision of the City Code.
- (4) False or incomplete information given on the application.
- (5) Noncompliance with any requirement or condition set by the Planning Commission or Community Development Department, if applicable, under a conditional use permit or by the Board of Adjustment or Community Development Department if applicable, granting a variance.
- (6) Noncompliance with any city, state or federal statutes or any health department regulations governing the applicant's proposed business.
- (7) Any other reason expressly provided for in this Title.

History: 3/80, 01/99

15-4-2 Reasons for Suspension or Revocation. An existing business license or alcoholic beverage license may be suspended or revoked for any of the following reasons:

- (1) The licensee does not now meet the qualifications for a licensee as provided under this Title;
- (2) False or incomplete information given on an application;
- (3) The licensee has violated or is violating any provision of this Title or provision of the City Code, state or federal statutes or regulations governing the licensee's business;
- (4) The licensee has obtained or aided another person to obtain a license by fraud or deceit;
- (5) The licensee has failed to pay property taxes, the utility tax or sales tax;
- (6) The licensee has refused to allow authorized representatives of the City to make an inspection or has interfered with such representative while in the performance of his duty in making such inspection;
- (7) The licensee is not complying with a requirement or condition set by the Planning Commission or Community Development Department, if applicable, under a conditional use permit; by the Board of Adjustment or Community Development Department if applicable, granting a variance; by the City Council; or by agreement;
- (8) Violation of this Title or of any other laws committed by any person while acting as an agent or employee of the licensee; or
- (9) Any other reason expressly provided for in this Title.

History: 03/80, 01/99

15-4-3 Enforcement.

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

History: 01/99

15-4-4 Procedure for Suspension or Revocation. The Business License Official shall cause written notice to be given by personal service or registered mail to the licensee of his or her decision to suspend or revoke a license, the reason for such decision, that

operation of a business after the effective date of the suspension or revocation is a Class "B" misdemeanor, the licensee's right to appeal the Business License Official's decision and have a hearing, and the appeal procedure.

History: 01/99

15-4-5 License Hearing Board. The Clinton City Council shall act as the License Hearing Board of Clinton City unless the City Council creates a separate License Hearing Board of Clinton City. If a Board is created it shall consist of three members appointed by the City Manager with the advice and consent of the City Council. Two members of the Board, one of whom must be a Clinton City employee, shall both be residents of Clinton City and the third member, who need not be a Clinton City resident, shall be a holder of or have a substantial interest in a current Clinton City business license. Board members shall be appointed and shall serve without compensation. Initially, appointments shall be made for one, two and three-year terms. Annually, thereafter, the City Manager shall, with the advice and consent of the City Council, appoint for three-year terms, Board members to take the place of retiring Board members. Vacancies in the Board caused by removals, resignations or otherwise, shall be filled for the unexpired term in the same manner as original appointments. The License Hearing Board shall have authority to hear evidence in business license matters referred to the Board and, after such hearing, shall submit its recommendations in writing to the Office of the City Manager. Nothing herein shall prevent the City Manager from serving as a member of the Board. The City Manager shall designate one member of the Board to be Chairman and one member of the Board to be Vice-Chairman for a period of one year.

History: 01/99

15-4-6 Appeal Procedure.

(1) Appeals of the Business License Official's decision to deny, suspend or revoke a license may be made by filing a written notice of appeal to appear before the Hearing Board with the Community Development Director within 15 days of receipt of the notice of denial, suspension or revocation.

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

History: 01/99

15-4-7 Hearing.

(1) The hearing shall be at a time, place, and day set by the Hearing Board, but not later than thirty working days after receipt of the notice of appeal.

(2) At the hearing, the Business License Official or representative from the City Attorney's Office shall present the reasons for the decision to deny, suspend or revoke the license.

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

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

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

(6) If the denial, suspension, or revocation being appealed is based on a finding by the Building Division, Community Development Department, Fire Department, Health Department, or Police Department that the business was or would be in violation of their applicable ordinances or regulations, then that finding shall be conclusive on the Hearing Board, and the Board's decision may be based only on whether the license was properly denied, suspended, or revoked because of the Building Division's, Community Development Department's, Fire Department's, Health Department's, or Police Department's finding.

(7) If the appeal is based on a decision by the Police Department to deny, suspend, or revoke a police I.D. card pursuant to Section 15-6-8, the factual determinations of the Police Department shall be conclusive and the License Hearing Board shall:

(a) Uphold the decision if the Hearing Board finds that the Police Department acted properly to deny, suspend, or revoke the police I.D. card based on the factual determinations made by the Police Department.

(b) Reverse the decision if the Hearing Board finds that the Police Department did not act properly to deny, suspend, or revoke the police I.D. card based on the factual determinations of the Police Department; or

(c) Uphold the decision if the Hearing Board finds that the Police Department acted properly to deny, suspend, or revoke the police I.D. card based on the factual determinations of the Police Department, but hold the decision in abeyance for one year on the basis of mitigating circumstances. Such mitigating circumstances may include, but shall not be limited to, the following:

(i) The impact of the decision on the cardholder's employment possibilities or career, relative to the severity of the reason the I.D. card was denied; or

(ii) The cardholder's completion, or willingness to complete, job skills training related to the cardholder's position, or approved counseling related to the violation, not including court-ordered counseling.

(d) If the decision of the Police Department is held in abeyance by the Hearing Board, any subsequent action by the applicant that would cause the Police Department to deny, suspend, or revoke the I.D. card pursuant to Section 15-6-8 shall immediately reinstate the original decision of the Police Department, and the applicant's I.D. card shall be automatically denied, suspended, or revoked, as the case may be.

(e) If the applicant appeals the decision of the Police Department regarding the I.D. card based on a dispute of the Department's factual findings, the applicant must request a review of the decision by the Police Department. The request shall include a statement explaining which facts are disputed, and proof that the Police Department's decision was in error. The Police Department shall respond to the applicant's request within 30 days. The response shall uphold the decision and include proof supporting the Police Department's findings, or modify the decision based on a review of the application.

(8) If the denial, suspension, or revocation appealed is based on a determination by the Business License Official that conditions of this code were violated, the Hearing Board may examine the factual nature of the grounds and determine whether such grounds are sufficient to sustain the decision of the Business License Official.

(9) The License Hearing Board does not have the authority to waive compliance with applicable provision of the Business License ordinances, nor can the Hearing Board extend deadlines set forth in the ordinances or change the substance or form the ordinances.

15-4-8 Decision of the Hearing Board. After hearing all the evidence the Hearing Board shall announce its decision within seven days from the date of hearing. The Hearing Board may affirm or reverse the decision of the Business License Official. The decision shall be in writing and shall be based only upon findings of fact. The Hearing Board may designate that the prevailing party or Business License Official draft the Findings of Fact and Order. If the prevailing party drafts the Findings of Fact and Order, the opposing party shall have five days from the date the draft is submitted within which to file objections to the draft. Upon resolution of all objections to the draft, the Hearing Board shall release the Findings of Fact and Order.

History: 01/99

15-4-9 Appeal of Hearing Board Decision. Any

decision of the License Hearing Board may be appealed by the applicant, licensee, or City to the District Court within 30 days from when the findings of fact and order are released.

History: 01/99

15-4-10 Licensing After Revocation. A person whose license has been revoked, may not be issued a license for a period of 12 months after the revocation.

History: 01/99

15-4-11 Validity of Business License or Alcoholic Beverage License During Appeal. Throughout the appeal process as outlined above, a licensee holding a suspended or revoked business or alcoholic beverage license may continue to operate his or her business in accordance with federal, state and local laws pending final decision on the appeal, or until the time for appeal has passed, whichever occurs first.

History: 01/99

15-4-12 Business Owner Responsible for Concessionaire. For purposes of business or premises owners who contract out the sale of alcoholic beverages on the business premises to an independent concessionaire, violation by said concessionaire of any provision of this Title shall constitute grounds for suspension and/or revocation of the license of said business or premises owner.

History: 01/99

Chapter 5. Base Fees and Bonding

- 15-5-1 Definitions
- 15-5-2 Bonds Required for Certain Businesses
- 15-5-3 Cigarette Vending Machine Sale to Minors
- 15-5-4 Home Occupation

15-5-1 Definitions. Definitions are to be established to describe businesses which will required bonding at the time the City Council determines that a bond for a business is required.

History: 01/99

15-5-2 Bonds Required for Certain Businesses.

(1) The City reserves the right to require businesses to post a bond with a corporate surety authorized to do business in the State of Utah, conditioned to indemnify the City or any individual for any loss, damage or expense occasioned by any act or failure to act of the licensee, or by any failure of the licensee to comply with the laws of the City, the Health Department or the State.

(2) The City may, by resolution passed by the City Council, establish types of businesses and bond amounts required under this section.

History: 01/99

15-5-3 Cigarette Vending Machine Sale to Minors. It shall be unlawful for any person to maintain a cigarette vending machine in a location where the same is used by or accessible to minors under the age of 19 years.

History: 01/99

15-5-4 Home Occupation. A home occupation shall pay the business license fee set by resolution of the City Council based upon the type of business and services provided by the City.

History: 01/99

Chapter 6. Employees for Alcohol Establishments

- 15-6-1 Definitions
- 15-6-2 Police I.D. Card Required
- 15-6-3 Procedure for Obtaining Employee Police I.D. Card
- 15-6-4 Cards Required
- 15-6-5 Duty to Display Card on Request
- 15-6-6 Business License Required
- 15-6-7 Place of Performance for Tavern Dancers
- 15-6-8 Grounds for Denial, Suspension or Revocation of an Employee's Police I.D. Card or a Business License
- 15-6-9 Prohibited Acts by Employees of Alcohol Establishments
- 15-6-10 Enforcement
- 15-6-11 Procedure for Denial, Suspension or Revocation
- 15-6-12 Hearing and Appeal Procedure
- 15-6-13 Booking Agent Liable for Acts of a Tavern Dancer
- 15-6-14 Penalty

15-6-1 Definitions.

Alcohol Establishment means a Class 'B' or Class 'C' beer licensed premises, nonprofit clubs and nonsales alcoholic beverage licensed premises as defined in Chapter 3 of this Title.

Band means any paid or unpaid musical group which entertains patrons of alcohol establishments.

Booking Agent is any person furnishing booking or employment services for a tavern dancer, band or other entertainers.

Employees of Alcohol Establishments means all paid and unpaid persons performing or providing services as waitresses, barmaids, doormen, bartenders, parking attendants, persons checking I.D., tavern dancers, bands or other entertainers, or any other service or function in an alcohol establishment. For Class 'B' and Class 'C' beer licensed premises, the term "employee(s)" shall include only those persons who work in the portion of the premises primarily intended for the sale and/or consumption of alcoholic beverages. For nonsales alcoholic beverage licensed premises, the term "employee(s)" shall include only those paid employees of the licensee directly involved in the distribution, serving or handling of alcoholic beverages.

Entertainer means any band or any paid or unpaid person who conducts any type of performance before the patrons of an alcohol establishment. For purposes of this Chapter "entertainer" does not include a tavern dancer.

Mingling means the circulating, mixing or contact or

close, face-to-face conversation between tavern dancers and patrons of the Class 'B' or Class 'C' licensed premises or nonprofit club.

Police Chief means the Police Chief, as appointed by the Clinton City Council, of the Clinton City Police Department.

Tavern Dancer means any person, paid or unpaid who entertains or performs before patrons of alcohol establishments through use of movement of their body, including but not limited to dancers, strippers, mud wrestlers and participants in a wet t-shirt or wet underwear contest.

History: 01/99

15-6-2 Police I.D. Card Required. It shall be unlawful for any person to be an employee of an alcohol establishment without first acquiring a police I.D. card therefore pursuant to the requirements of this Chapter. Each day of noncompliance shall constitute a separate violation.

History: 01/99

15-6-3 Procedure for Obtaining Employee Police I.D. Card.

(1) Prior to performing or providing services as an employee for an alcohol establishment, the applicant shall submit a signed police I.D. card application to the Police Department along with the police I.D. fee, as set forth in the Consolidated Fee Schedule. The applicant shall submit to being photographed and fingerprinted.

(2) All applicants shall furnish satisfactory proof of his or her age.

History: 01/99

15-6-4 Cards Required. All employees of alcohol establishments shall have in their possession a valid police I.D. card, which card is not transferable and shall not commence work in any alcohol establishment prior to receiving said card based on the application required in this Chapter. A receipt for payment of the police I.D. fee required by this chapter shall not constitute a valid police I.D. card.

History: 01/99

15-6-5 Duty to Display Card on Request. Should a police I.D. card be granted, the grantee shall carry the card in his or her possession, and any authorized official shall have the right to inspect the police I.D. card. The police I.D. card shall contain the name, photo, address and date of birth of the employee, the expiration date of the card and the name of the booking agent, if applicable.

History: 01/99

15-6-6 Business License Required.

(1) Each booking agent shall obtain a business license and pay the license fee set forth in the Consolidated Fee Schedule.

(2) Each tavern dancer shall obtain a business license and pay the license fee as set forth in the Consolidated Fee Schedule in addition to obtaining a police I.D. card as provided in this chapter. This includes all tavern dancers regardless of whether they are independent, represented by a booking agent, or an employee of the alcohol establishment.

History: 01/99

15-6-7 Place of Performance for Tavern

Dancers. Tavern dancers shall perform only on a stage, platform or dance floor that has a barrier between the tavern dancer and patrons where no tavern dancer is closer than arm's length from a naturally positioned patron.

History: 01/99

15-6-8 Grounds for Denial, Suspension or Revocation of an Employee's Police I.D. Card or a Business License. In addition to the reasons set forth in Chapter 4 of this Title, the City may deny, suspend or revoke a police I.D. card and license, if applicable, if the applicant or licensee;

- (1) Has violated any provision of this Title;
- (2) Has been convicted of any felony or has completed serving a sentence for any felony conviction (whichever is most recent) within three years, or a misdemeanor within the last two years involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor, or any criminal act which might relate to the employment of the applicant;
- (3) Has procured, attempted to procure, or agreed to procedure, for any person:
 - (a) A controlled substance, as defined in U.C.A. 58-37-1, et seq., 1953 as amended; or
 - (b) Another person for the purpose of sexual intercourse or any other immoral act;
- (4) If an employee has attempted to solicit or has solicited a patron to consume alcoholic beverages;
- (5) Has utilized his or her license for the purpose of obtaining credit or as identification for cashing checks.

15-6-9 Prohibited Acts by Employees of Alcohol Establishments. The following acts committed by an employee of an alcohol establishment shall be unlawful and shall be grounds for the suspension or revocation of the employee's police I.D. card and license, if applicable:

(1) The performance or simulation of sexual intercourse, masturbation, oral copulation, anal copulation, bestiality, flagellation, or any sexual acts prohibited by law.

(2) The simulation or actual touching, caressing or fondling by the employee of the employee's own breasts buttocks, anus or genitalia or the breasts, buttocks, anus or genitalia or another employee or of a patron of the alcohol establishment.

(3) Permitting a patron of the alcohol establishment or another employee to touch, caress or fondle the employee's breasts, buttocks, anus or genitalia, or simulate any such action.

(4) The display or simulation of the display of pubic hair, buttocks, genitalia, or female breast below a point immediately above the top of the areola.

(5) Mingling, as defined in this Chapter, unless the dancer is fully clothed or fully opaquely robed from the top of the breast to a point mid-thigh.

(6) The use of any controlled substance or the consumption of any alcoholic beverage or being under the influence of any controlled substance or alcoholic beverage while performing or providing services as an employee for any alcohol establishment.

History: 01/99

15-6-10 Enforcement.

(1) The Police Chief shall have the authority, without a hearing, to deny a police I.D. card for the reasons provided in this Chapter. In the case of denial for submission of false or incomplete information on an I.D. card application, the Police Chief may impose a reapplication-waiting period of up to 90 days in lieu of denial if the incomplete or false information causing the denial is not related to an alcohol offense. The imposition of a reapplication-waiting period may be appealed to the License Hearing Board pursuant to Section 15-4-6.

(2) The Police Chief shall have the authority, without a hearing, to suspend or revoke a police I.D. card for the reasons provided in this Chapter. However, the suspension or revocation shall not take effect until the time period for appealing the decision as set forth in this Chapter has passed, or until all appeals properly initiated have been resolved, whichever occurs first.

(3) The Police Chief may, on his or her own initiative or in response to complaints from the general public or any City department or division, investigate and gather evidence of violations of this Title or other circumstances which may give rise to a denial, suspension or revocation.

History: 01/99

15-6-11 Procedure for Denial, Suspension or Revocation. The Police Chief shall cause written notice to be given by personal service or registered mail to the police I.D. cardholder of the following: his or her decision to deny, suspend or revoke a police I.D. card; the reason for such decision; that performing or providing services after the effective date of the suspension or revocation constitutes a Class 'B' misdemeanor, or if, in the case of a denial, performing or providing services without a valid police I.D. card constitutes a Class 'B' misdemeanor; the police I.D. card applicant's right to appeal the Police Chief's decision; the appeal procedure.

History: 01/99

15-6-12 Hearing and Appeal Procedure. The procedure for hearing an appeal of the Police Chief's decision shall be made in accordance with Sections 15-4-5 through 15-4-10 of this Title.

History: 01/99

15-6-13 Booking Agent Liable for Acts of a Tavern Dancer. The suspension or revocation of the police I.D. card and/or business license of two or more tavern dancers, working under the same booking agent within any 12-month period shall result in the revocation of the business license of said booking agent.

History: 01/99

15-6-14 Penalty. Violation of any of the provisions of this Chapter shall be a Class B misdemeanor.

History: 07/99

Chapter 7. Restaurants

- 15-7-1 Definitions
- 15-7-2 Unlawful to Employ Help Under Eighteen Years of Age After One A.M.
- 15-7-3 Minors Prohibited on Premises After Eleven A.M.
- 15-7-4 Certain Persons Not Allowed in Restaurants

15-7-1 Definitions.

Restaurant means any place where food and beverages are prepared, served and sold for human consumption on or off the premises.

History: 01/99

15-7-2 Unlawful to Employ Help Under Eighteen Years of Age After One A.M. It shall be unlawful for any restaurant to employ any person under the age of eighteen years after the hour of 1:00 a.m. and before 6:00 a.m. of any day.

History: 01/99

15-7-3 Minors Prohibited on Premises After Eleven A.M. It shall be unlawful for any person holding a restaurant license to allow any person under the age of 16 to visit or remain on the licensed premises after the hour of 11:00 p.m. of any day unless such minor is accompanied by his parent or guardian.

History: 01/99

15-7-4 Certain Persons Not Allowed in Restaurants. It shall be unlawful for any person licensed under the provisions of this Chapter to permit to loiter, loaf or idle in his place of business any known prostitute, gambler, pimp or procurer, or permit in any such place of business any vulgar, obscene, gross, indecent or immoral act, conduct, or disorder. The word "known" shall mean known to the licensee, or any of his employees, or to the police or other public authorities having supervision over such place of business or one who has such a reputation.

History: 01/99

Chapter 8. Service Stations

- 15-8-1 Definitions
- 15-8-2 Nonbusiness Filling Stations
- 15-8-3 Coin-operated Stations
- 15-8-4 Food and Beverages

15-8-1 **Definitions.**

Service station means a place means a place of business where gasoline or any highly volatile fuels for motor vehicles or internal combustion engines, are sold or offered for sale at retail, and dispensed into the fuel tanks of such motor vehicles. A “service station” shall also include a private storage tank and dispensing of such products for the same purposes as those served by a service station, whether the storage is maintained for the use or benefit of the owner, lessees, agents or employees of either, or of any others.

History: 01/99

15-8-2 Nonbusiness Filling Stations. Any person maintaining or operating any storage tank for gasoline for the use of automobiles of the owner, lessee, employees or agents of such person shall comply with all the provisions of applicable ordinances except the payment of a business license fee.

History: 01/99

15-8-3 Coin-operated Stations. It shall be unlawful for any person to maintain any coin-operated station without the services of an attendant on duty at all times.

History: 01/99

15-8-4 Food and Beverages. Food or beverages shall not be served, sold, or allowed to be consumed on the premises of a service station without the licensee first acquiring the necessary food handling permits and a convenience store business license as required by this Title.

History: 01/99

**Chapter 9. Burglar and Robbery Alarm
Systems (Reserved)**

Chapter 10. Christmas Tree Business

- 15-10-1 Definitions
- 15-10-2 Business Requirements
- 15-10-3 Unlawful to Possess or Sell Untagged Trees
- 15-10-4 Application for License
- 15-10-5 Zoning Requirements
- 15-10-6 Clean-up Deposit
- 15-10-7 Building Permit Required

15-10-1 Definitions.

Christmas Tree means a cut tree, usually fir or evergreen, but including any tree sold to be decorated and used as part of the Christmas celebration and commemoration.

Christmas Tree Business means to sell, offer to sell or display for sale Christmas trees, to the public, for profit. Each location at which Christmas trees are sold, offered or displayed for sale shall be considered a separate business.

History: 01/99

15-10-2 Business Requirements. It shall be unlawful for any person or entity to operate a Christmas tree business without meeting the requirements of this Chapter and obtaining a business license as required by this Title.

History: 01/99

15-10-3 Unlawful to Possess or Sell Untagged

Trees. It shall be unlawful for any person to have in his possession for sale, or to sell or offer for sale in this City trees from within the public domain of the United States, or of the State of Utah, or from any private lands, within or without the State of Utah, without written authority having been first obtained from the United States, said State of Utah, or from the owner of such private lands, as the case may be, to cut and remove such trees. The trees shall have been officially tagged with a tag furnished or approved either by the United States Forest Service or the Department of Forestry of the State of Utah.

History: 01/99

15-10-4 Application for license. In addition to the information required by Section 15-1-5, an application to sell and dispose of Christmas trees within the City shall specifically state and set forth the source of the title to the trees to be sold and whether the trees or any of them were cut or procured within any public domain of the United States, or of the State of Utah, or from any private lands, either within or without the State of Utah. Applicants shall be required in connection with such application to furnish the license official with evidence of ownership of such trees and/or authority to cut and

procure the same from the public domain or from private lands.

History: 01/99

15-10-5 Zoning Requirements. A license to operate a Christmas tree business shall not be issued to any applicant who does not meet the requirements of the Clinton City Zoning Ordinance or such other zoning requirements as may be applicable. The application shall be reviewed and approved by the Community Development Director prior to issuance of a license.

History: 01/99

15-10-6 Clean-up Deposit. A clean-up deposit shall be required of the licensee to assure the removal of unsold trees and related debris remaining on the premises at the conclusion of the license period. The deposit shall be refunded to the licensee, provided the premises are left clean and free of the unsold trees and related debris as determined by inspection. The amount of the deposit shall be set forth in the Consolidated Fee Schedule.

History: 01/99

15-10-7 Building Permit Required. Nothing in this ordinance is intended to relieve a licensee of the requirement to obtain a building permit as set forward in the adopted construction codes. Permits may be needed for such items as permanent power, festoon lighting, and temporary water, etc.

History: 01/99

Chapter 11. Solicitors, Peddlers, Vendors, and Temporary Businesses

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PART 1 – SOLICITORS AND PEDDLERS

15-11-1 Purpose.

(1) Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

(2) There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding Door-to-Door Solicitation, the experience of its law enforcement officers and those affected by Door-to-Door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in Door-to-Door Solicitation, the City adopts this Chapter to promote

the City's substantial interests in:

- (a) respecting citizen(s) decisions regarding privacy in their residences;
 - (b) protecting persons from criminal conduct;
 - (c) providing equal opportunity to Advocate for and against Religious Belief, Political Position, or Charitable Activities; and
 - (d) permitting truthful and non-misleading Door-to-Door Solicitation regarding lawful Goods or Services in intrastate or interstate commerce.
- (3) The City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.

15-11-2 No Other City 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 City to engage in Door-to-Door Solicitation.
- (2) Any Business licensed by the City under another City Ordinance that uses employees, independent contractors, or agents for Door-to-Door Solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such Solicitors obtain a Certificate, unless otherwise exempt from Registration.
- (3) Those Responsible Persons or Entities associated with Registered Solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.
- (4) 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.

15-11-3 Definitions. For the purposes of this Chapter, the following definitions shall apply:

Advocating means speech or conduct intended to inform, promote, or support Religious Belief, Political Position, or Charitable Activities.

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.

Applicant means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a Certificate permitting Door-to-Door

Solicitation.

Application Form means a standardized form provided by the City to an Applicant to be completed and submitted as part of Registration.

B.C.I. means an original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a Disqualifying Status exists for the Applicant.

Business means a commercial enterprise licensed by the City as a person or Entity under this Title, having a fixed or temporary physical location within the City.

Business License Official means the City employee(s) or agent(s) responsible for receiving from an Applicant or Registered Solicitor the Completed Application and either granting, suspending, or denying the Applicant(s) Certificate.

Certificate means a temporary, annual, or renewal Certificate permitting Door-to-Door Solicitation in the City applied for or issued pursuant to the terms of this Chapter.

Charitable Activities means Advocating by persons or Entities that either are, or support, a Charitable Organization.

Charitable Organization

(1) Includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other Entity that is:

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

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

(c) established for any charitable purpose; and

(d) 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.

(2) Charitable Organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a Charitable Organization that has its principal place of

business outside the City or State of Utah.¹

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

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.

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.

Disqualifying Status means anything specifically defined in this Chapter as requiring the denial or suspension of a Certificate, and any of the following:

- (1) The Applicant or Registered Solicitor has been Criminally Convicted of:
 - (a) felony homicide,
 - (b) physically abusing, sexually abusing, or exploiting a minor,
 - (c) the sale or distribution of controlled substances, or
 - (d) sexual assault of any kind.
- (2) Criminal charges currently pending against the Applicant or Registered Solicitor for:
 - (a) felony homicide,
 - (b) physically abusing, sexually abusing, or exploiting a minor,
 - (c) the sale or distribution of controlled substances, or
 - (d) sexual assault of any kind.
- (3) The Applicant or Registered Solicitor has been Criminally Convicted of a felony within the last ten (10) years;
- (4) The Applicant or Registered Solicitor has been incarcerated in a federal or state prison within the past five (5) years;
- (5) The Applicant or Registered Solicitor has been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:

(a) moral turpitude, or

(b) violent or aggravated conduct involving persons or property.

(6) A Final Civil Judgment been entered against the Applicant or Registered Solicitor within the last five (5) years indicating that:

(a) the Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or

(b) 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)

(c) 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;

(7) The Applicant or Registered Solicitor has an outstanding arrest warrant from any jurisdiction; or

(8) 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.

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.

Entity includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

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.

Final Civil Judgment means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

Goods means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

Hearing Board means the City Council or designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Chapter.

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,

¹Charitable Solicitation Act UCA ' 13-22-2(1)(a) & (b).

regardless of

- (1) the means of payment or consideration used for the purchase;
- (2) the time of delivery of the Goods or Services; or
- (3) the previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

No Solicitation Sign means a reasonably visible and legible sign that states No Soliciting, No Solicitors, No Salespersons, No Trespassing, or words of similar import.

Political Position means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

Registered Solicitor means any person who has been issued a current Certificate by the City.

Registration means the process used by the City Business License Official to accept a Completed Application and determine whether or not a Certificate will be denied, granted, or suspended.

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.

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 City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.

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:

- (1) maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any Sale of Goods or Services, paying the sales taxes, and filing any required returns or reports;
- (2) facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
- (3) refunding any monies paid or reversing credit card charges to those persons who timely rescind any

sale pursuant to applicable contractual rights or law.

Sale of Goods or Services means the conduct and agreement of a Solicitor and the Competent Individual in a Residence regarding a particular Good(s) or Service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

Services means those intangible goods or personal benefits offered, provided, or sold to a Competent Individual of a Residence.

Soliciting or Solicit or Solicitation means any of the following activities:

- (1) 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
- (2) Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- (3) Seeking to obtain contributions of money or any other thing of value for the benefit of any person or Entity;
- (4) Seeking to obtain orders or prospective customers for Goods or services.
- (5) Seeking to engage an individual in conversation at a Residence for the purpose of promoting or facilitating the receipt of information regarding Religious Belief, Political Position, Charitable Conduct, or a Home Solicitation Sale.
- (6) Other activities falling within the commonly accepted definition of Soliciting, such as hawking or peddling.

Solicitor or Solicitors means a person(s) engaged in Door-to-Door Solicitation.

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 City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

Substantiated Report means an oral, written, or electronic report:

- (7) That is submitted to and documented by the City;
 - (a) By any of the following:
 - (i) A Competent Individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;
 - (ii) City law enforcement or Business License

Official; or

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

(8) That provides any of the following information regarding a Registered Solicitor:

(a) Documented verification of a previously undisclosed Disqualifying Status of a Registered Solicitor;

(b) Probable cause that the Registered Solicitor has committed a Disqualifying Status which has not yet been determined to be a Disqualifying Status;

(c) 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

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

Waiver means the written form provided to Applicant by the City wherein Applicant agrees that the City may obtain a name/date of birth BCI background check on the Applicant for licensing purposes under this Chapter, and which contains Applicant(s) notarized signature.

15-11-4 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 15-11-17, 15-11-18, and 15-11-19 while Advocating or Soliciting.

15-11-5 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 City by Solicitors, for the purpose of Home Solicitation Sales or to provide Goods or Services, is prohibited and is punishable as set forth in this Chapter.

15-11-6 Registration of Solicitors. Unless otherwise exempt under this Chapter, all persons desiring to engage in Door-to-Door Solicitation within the City, prior to doing so, shall submit a Completed Application to the Business License Official and obtain a Certificate.

15-11-7 Application Form. The Business License Official shall provide a standard Application Form for use for the Registration of Solicitors. Upon request to the Business License Official, 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 (10) years;

(b) Applicant(s) telephone number, home address and mailing address, if different;

(c) If different from the Applicant, the name, address, and telephone number of the Responsible Person or Entity; and

(d) The address by which all notices to the Applicant required under this Chapter are to be sent.

(3) Proof of Identity.

(a) An in-person verification by the Business License Official of the Applicant(s) true identity by use of any of the following which bear a photograph of said Applicant:

(i) A valid driver's license issued by any State;

(ii) A valid passport issued by the United States;

- (iii) A valid identification card issued by any State;
- (iv) A valid identification issued by a branch of the United States military.
- (b) Upon verification of identity, the original identification submitted to establish Proof of Identity shall be returned to the Applicant.
- (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. When Soliciting in Clinton City 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 15-11-3; and
- (b) A signed copy of a Waiver whereby Applicant agrees to allow the City to obtain a name/date of birth BCI background check on Applicant for purposes of enforcement of this Chapter. 2
- (8) Responses to Questions Regarding A 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 (10) years;
- (d) Has the Applicant been incarcerated in a federal or state prison within the past five (5) years;
- (e) Has the Applicant been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:
- (i) moral turpitude, or
- (ii) violent or aggravated conduct involving persons or property.
- (f) Has a Final Civil Judgment been entered against the Applicant within the last five (5) 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; or
- (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 City, which shall not exceed the reasonable cost of processing the application and issuing the Certificate and/or Identification Badge.
- (10) Execution of Application. The Applicant shall execute the Application Form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the Applicant, the information provided is complete, truthful and accurate.
- 15-11-8 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 City to verify information submitted with the Completed Application including:

²See Utah Code Ann. ' 53-10-108(1)(b).

- (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;
- (c) the validity of the Applicant(s) Proof of Identity;
- (2) The City may consult any publicly 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 City will maintain copies of the Applicant(s) Application Form, Proof of Identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether 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, turned in by 3:00 p.m., will be granted or denied the same business day that a Completed Application is submitted.

15-11-9 When Registration Begins. The Business License 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 Business License Officer verifies the Applicant(s) identity. A copy of the identification may be retained by the Business License Officer. If an original B.C.I. background check is submitted by the Applicant, the Business License Officer shall make a copy of the B.C.I. and return the original to the Applicant.

15-11-10 Issuance of Certificates. The Business License 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 be issued by the

Business License Official or an authorized officer 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 B.C.I. does not affirmatively show a Disqualifying Status; and
- (vi) the Applicant has not previously been denied a Certificate by the City, or had a Certificate revoked for grounds that still constitute a Disqualifying Status under this Chapter.
- (b) A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual Certificate, whichever period is shorter.

(2) Annual Certificate. Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:

(a) Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the Applicant, including, but not limited to those disclosed with the Application Form.

(b) Issue written notice to the Applicant and the Responsible Person or Entity, if any, that the Applicant either:

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

(ii) will not be issued an Annual Certificate for reasons cited in Section 15-11-14 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 15-11-14, or a Disqualifying Status is present.

15-11-11 Form of Certificate and Identification Badge.

(1) Certificate Form. Should the Business License Official determine that the Applicant is entitled to a

Certificate, the Business License Official 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 Business License Official. The Certificate shall be carried by the Registered Solicitor at all times while Soliciting in the City.

(2) Identification Badge. With both the temporary and annual Certificates, the City shall issue each Registered Solicitor an Identification Badge that shall be worn prominently on his or her person while Soliciting in the City. The Identification Badge shall bear the name of the City and 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; a recent photograph of the Registered Solicitor; and (d) the date on which the Certificate expires.

15-11-12 Maintenance of Registry. The Business License Official shall maintain and make available for public inspection a copy or record of every Completed Application received and the Certificate or written denial issued by the City. The Applicant(s) BCI background check shall remain a confidential, protected, private record not available for public inspection. The Business License Official may furnish to the head of the City(s) law enforcement agency a listing of all Applicants, those denied, and those issued a Certificate.

15-11-13 Non-Transferability of Certificates. Certificates shall be issued only in the name of the Applicant and shall list the Responsible Party or Entity, if any. The Certificate shall be non-transferable. A Registered Solicitor desiring to facilitate or attempt to facilitate Home Solicitation Sales with different: (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 Business License Official. 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 City, after payment of the Fee for the Identification Badge.

15-11-14 Denial, Suspension or Revocation of a Certificate of Registration.

(1) Denial. Upon review, the Business License Official 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 (1) establish Proof of Identity, (2) provide a B.C.I. or (3) pay the Fees;
- (iii) the Completed Application or B.C.I. indicates that the Applicant has a Disqualifying Status; or
- (iv) The Applicant has previously been denied a Certificate by the City, or has had a Certificate revoked for grounds that still constitute a Disqualifying Status under this chapter.

(b) Denial of Annual Certificate.

(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 City has received a Substantiated Report regarding the past or present conduct of the Applicant;

(v) Since the submission of the Application, the City or other governmental entity has either Criminally Convicted or obtained a civil injunction against the Applicant for violating 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 City has received a Substantiated Report regarding the past or present conduct of the Solicitor;

(v) The City 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 City shall either suspend or revoke a Certificate when any of the reasons warranting the denial of a Certificate occurs. At the time of suspension the Solicitor must surrender the issued I.D. badge and certificate.

(3) Notice of Denial or Suspension. Upon determination of the Business License Official to deny an Applicant(s) Completed Application or to suspend a Registered Solicitor(s) Certificate, the City shall cause written notice to be sent to the Applicant or Registered Solicitor by the method indicated in the Completed Application. The Notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by Applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the Certificate shall take effect. It shall further state that the Applicant or Registered Solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 15-11-3(34)(C)(4), 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.

15-11-15 Appeal. An Applicant or Registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the City Council 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 City Recorder with a copy to the Business License Official within ten (10) 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 City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.

(3) The Hearing Board shall review, de novo, all written information submitted by the Applicant or Registered Solicitor to the Business License Official, any additional information relied upon by the Business License Official as the basis for denial, suspension or revocation, and any additional information supplied by the City, Applicant or Registered Solicitor. Any additional information submitted by any party to the appeal to the Hearing Board shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Hearing Board regarding the additional information submitted by the opposing party.

(4) The Hearing Board will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 15-11-15 (3), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

(a) The denial or suspension of the Certificate shall be reversed by the Hearing Board if upon review of the written appeal and information submitted, the Hearing Board finds that the Business License Official 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 Business License Official 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 Hearing Board 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.

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

(6) Nothing herein shall impede or interfere with the Applicant(s), Solicitor(s), or City(s) right to seek relief in a court of competent jurisdiction.

15-11-16 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 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 City of the Solicitor's Goods or Services or of the individual Solicitor.

15-11-17 "No Solicitation" 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.

15-11-18 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.

(9) The Solicitor shall have both a valid certificate and badge with them at all times.

(10) The Solicitor shall not pursue a sale at a residence without an adult or someone of at least 18 years of age being present.

15-11-19 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.

15-11-20 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.

15-11-21 Penalties. Any person who violates any term or provision of this Chapter shall be guilty of a Class C Misdemeanor and shall be punished by a fine of not to exceed \$750.00 and/or a jail sentence of not to exceed three (3) months.

History 01/07 (Rewritten)

PART 2 – VENDORS

15-11-30 Purpose and Intent. It is the intent of this Chapter to:

- (1) Serve and protect the health, safety, and welfare of the general public;
- (2) Establish a uniform set of rules and regulations that are fair and equitable; and
- (3) Enhance the overall safety, appearance, and environment along public streets, pedestrian ways, and other public properties.

History: 01/99

15-11-31 License Required. It shall be unlawful for any person to engage in the business of vending unless he/she has first obtained a license from the Business License Official. All licenses shall be issued according to regulations established by the Community Development Department.

History: 01/99

15-11-32 Application for License. The application for a vending license shall contain all information relevant and necessary to determine whether a particular license may be issued, including, but not limited to:

- (1) The applicant's full name, current address, telephone number, and proof of identity;
- (2) A brief description of the nature, character, and quality of goods, wares, or merchandise to be offered for sale;
- (3) The specific location, if any in which the vendor intends to conduct business;
- (4) If the applicant is employed by another, the name and address of the person, firm, association, organization, company, or corporation;
- (5) If one or more motor vehicles, or other conveyance is to be used, a description of the vehicle(s), together with the motor vehicle(s) registration number and license number; and
- (6) If a motor vehicle, or other conveyance is to be used, a copy of the Davis County Health Department documentation verifying that the vehicle(s) have passed the required inspections.

History: 01/99

15-11-33 Health Inspection Certificate. Any application for a vending license to engage in the sale of food or beverages shall require a health permit from Davis County in addition to the regular vending license. The applicant's equipment shall be subject to inspection by the County Health Department at the time of application and at periodic intervals thereafter.

History: 01/99

15-11-34 Health Inspection Mobile Food Service Decal. It shall be unlawful for any person to sell, offer to sell, or display for sale food or beverages from a vehicle which does not properly display current Davis County Health Department Mobile Food Service Decals.

History: 01/99

15-11-35 Issuance of License.

(1) The Official shall notify the applicant in writing of the City's decision to issue or deny the vending license not later than thirty 30 days after the applicant has filed a complete application with the Official. Any applicant for a license to sell food and beverages, whose application receives the approval of the County Health Department, shall be issued a vending license with a copy of the county health permit attached.

(2) Each license shall show the name and address of the licensee, the type of license issued, the kind of goods to be sold, the amount of the license fee, the date of issuance, the license number, an identifying description of any vehicle or conveyance used by the licensee plus, where applicable, the motor vehicle registration number. Each license shall also show the expiration date of the license and the vendor's vehicle license plate number.

(3) In addition to the vending license and any other permit required by this Chapter, the applicant shall obtain a work card from the Police Department. The applicant shall pay the fee for the work card as established in the Consolidated Fee Schedule, in addition to any application fees for the permit.

(4) All licenses, permits, and work cards issued pursuant to this Part are valid for one year, unless suspended or revoked, and shall be both non-assignable and non-transferable.

History: 01/99

15-11-36 License Fees. Any vendor granted a vending license under this Chapter shall pay the annual license fee established in the Consolidated Fee Schedule.

History: 01/99

15-11-37 Display of Work Cards and Other Permits.

(1) Any license or permit issued by the Division shall be carried with the licensee whenever he/she is engaged in vending. Work cards and health permits shall also be properly and conspicuously displayed at all times during the operation of the vending business.

(2) A work card shall be deemed to be properly displayed when it is attached to the outer garment of

the vendor and clearly visible to the public and law enforcement officials. A health permit shall be deemed to be properly displayed when attached to the vending pushcart, vehicle, stand, or other conveyance and clearly visible to the public and law enforcement officials.

History: 01/99

15-11-38 Notification of Name or Address Change.

All vendors shall assure that a current and correct name, residence address, and mailing address are on file with the Business License Division. Whenever the name or address provided by a licensed vendor on his/her application or vending license changes, the licensee shall notify the Official in writing within 14 days of such change and provide the same with the name change or address change.

History: 01/99

15-11-39 Exemptions. The provisions of this Part do not apply to:

- (1) Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment, or transfer;
- (2) The placing and maintenance of unattended stands or sales devices for the sale, display, or offering for sale of newspapers, magazines, periodicals, and paperbound books; or
- (3) The distribution of free samples of goods, wares, and merchandise by any individual from his/her person.
- (4) Participation in City sponsored fairs, carnivals, or festivals where the city charges a fee for rental of a booth and where sales will only be accomplished during the fair, carnival, or festival. However, all requirements related to Health Department inspections and certificates shall apply.

History: 01/99

15-11-40 Claims of Exemption. Any person claiming to be legally exempt from the regulations set forth in this Part or from the payment of a license fee shall cite to the Official the statute or other legal authority under which exemption is claimed and shall present to the Official proof of qualification for such exemption.

History: 01/99

15-11-41 Hours of Operation. Vendors shall be allowed to engage in the business of vending only between the hours of 8 a.m. and 8 p.m.; except, on school days, vendors shall be allowed to engage in the business of vending between the hours of 8 a.m. and 4 p.m., only if vending at least two blocks from churches, playgrounds, and schools. No vending station conveyance or other item related to the

operation of a vending business shall be located on any city sidewalk or other public way during non-vending hours. No vehicle shall be parked, stored, or left overnight, other than in a lawful parking place.

History: 01/99

15-11-42 Littering and Trash Removal.

(1) Vendors shall keep the sidewalks, roadways, and other spaces adjacent to their vending sites or locations clean and free of paper, peelings, and refuse of any kind generated from the operation of their business. All trash or debris accumulating within 25 feet of any vending stand shall be collected by the vendor and deposited in a trash container.

(2) Persons engaged in food vending shall affix to their vending station, vehicle, pushcart, or other conveyance a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

History: 01/99

15-11-43 Vending Restrictions. No vendor shall be permitted to operate in the following areas of public space:

- (1) Within 150 feet of any street intersection or pedestrian crosswalk.
- (2) Within 50 feet of any driveway, loading zone, or bus stop.
- (3) Within 50 feet of another vending location assigned to another vendor on a public sidewalk.
- (4) Within a minimum of 25 feet of unobstructed pedestrian space.
- (5) In any area within 300 feet of a building entrance or exit.
- (6) Against display windows of fixed location businesses.
- (7) Any area within two blocks of an elementary school, middle school, or high school.
- (8) Within 50 feet of any fire hydrant or fire escape. No vending is allowed in a designated fire zone.
- (9) Within 25 feet of any parking space or access ramp designated for persons with disabilities.
- (10) Within any parking area, unless a portion of the parking area is blocked off by the property owner expressly for the use of vending, and the vending location otherwise complies with the distance limitations imposed by this Section.

History: 01/99

15-11-44 Prohibited Conduct. No person authorized to engage in the business of vending under this

Chapter shall do any of the following:

- (1) Unduly obstruct pedestrian or motor vehicle traffic flow.
- (2) Obstruct traffic signals or regulatory signs.
- (3) Stop, stand, or park any vehicle, pushcart, or any other conveyance upon any street for the purpose of selling during the hours when stopping, standing, and parking have been prohibited by signs or curb markings.
- (4) Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public space overnight.
- (5) Use a handcart or pushcart whose dimensions exceed four feet in width, six feet in length, and seven feet in height.
- (6) Use any stand or other fixed-location conveyance whose dimensions exceed five feet in width, eight feet in length, and seven feet in height.
- (7) Use any conveyance that, when fully loaded with merchandise, cannot be easily moved and maintained under control by the licensee, the licensee's employee, or an attendant.
- (8) Sell any goods, wares, or merchandise within the right-of-way of public streets in a commercial or manufacturing zone; or within 200 feet of the boundary of a commercial or manufacturing zone; or in the right-of-way of arterial streets that have been, or shall be hereafter, so designated by the City.
- (9) Sound any device that produces a loud and raucous noise, or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention, or otherwise violate Title 22 of the Clinton City Code.
- (10) Conduct his/her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant; create a nuisance; increase traffic congestion or delay; constitute a hazard to traffic, life, or property; or obstruct adequate access to emergency and sanitation vehicles.
- (11) Conduct business on private residential property.
- (12) Conduct business on private commercial property, without the express written consent of the property owner.
 - (a) The written consent shall state the areas of the private property where business may be conducted.
 - (b) Written consent is required to obtain a license under Section 15-11-22
 - (c) A person conducting business on private property must comply with this Part, in addition to any restrictions imposed by the private property owner.

History: 01/99

15-11-45 Use of Public Streets.

- (1) It shall be unlawful to sell, offer to sell, or display for sale retail merchandise from or on motorized vehicles on public streets without a valid business license and except as authorized by this Title.
- (2) Each person or business selling, offering to sell, or displaying for sale retail merchandise from or on motorized vehicles on public streets shall abide by the following conditions and requirements. Failure to comply may result in the suspension or revocation of a business license or Police work card, and is a class "C" misdemeanor:
 - (a) The motorized vehicle shall have a current Utah State Vehicle Registration, proof of a current emissions and safety inspection and proof of insurance.
 - (b) The motorized vehicle shall have a clearly audible backup warning device that activates whenever the vehicle is shifted into reverse gear.
 - (c) The motorized vehicle shall have a convex mirror mounted on the front of the vehicle so that the driver, in a normal driving position, can see the area in front of the vehicle that is obscured by the hood.
 - (d) The motorized vehicle shall have a flashing yellow beacon on the roof of the vehicle that is visible from all sides of the vehicle. This beacon shall be activated whenever merchandise is being sold, offered for sale, or displayed for sale.
 - (e) The motorized vehicle shall be prohibited from pulling any type of trailer.
 - (f) If the merchandise being sold, offered for sale, or displayed for sale includes any item intended for human consumption, the vehicle shall be inspected and approved by the Davis County Health Department on a yearly basis.
 - (g) Retail merchandise may be sold, offered for sale, or displayed for sale from or on motorized vehicles on public streets only between the hours of one hour after sunrise and one hour before sunset. Sunrise and sunset shall be determined on any particular day by the times listed that day in any major newspaper published in Davis or Weber County.
 - (h) Retail merchandise may not be sold, offered for sale, or displayed for sale from or on motorized vehicles on public streets where the speed limit exceeds 25 miles per hour.
 - (i) The operator of the motorized vehicle shall not sell to any person standing in the roadway.
 - (j) The operator of the motorized vehicle shall sell, offer to sell, or display for sale retail merchandise only when the vehicle is completely stopped and

lawfully parked, and shall sell only from the rear or side of the vehicle nearest to the curb or edge of the roadway.

(k) The motorized vehicle shall have a sign on the rear of the vehicle stating, "THIS VEHICLE MAKES FREQUENT STOPS". Lettering shall be three (3) inches high, of reflective material and clearly visible from behind the vehicle.

(l) The motorized vehicle shall not be moved backwards in order to sell, offer to sell, or display for sale retail merchandise.

(m) Each applicant for a license or renewal under this Section shall submit, with its application, evidence of general liability insurance in an amount not less than \$500,000. The applicant must submit to the City a certificate of insurance that provides that the policy cannot be canceled prior to giving the City at least 10 days written notice of cancellation.

(n) The motorized vehicle and operator must comply with all other requirements of this Chapter and any other requirements of ordinance or statute that may be applicable.

(3) Each person selling, offering to sell, or displaying for sale retail merchandise from or on motorized vehicles on public streets shall obtain a Clinton City Police work card prior to beginning operation. The City may deny, suspend, or revoke a work card and license, if applicable, if the applicant or licensee has received a moving traffic violation within the last 12 months.

(4) Each vehicle operating under this section or otherwise being used or intending to be used for retail sales shall have an inspection performed by the Clinton City Police Department. Every vehicle inspected shall display proof of inspection provided by the Clinton City Police Department. This provision will apply to any business license issued or renewed after the date of this ordinance.

(5) The prohibitions of this Section shall not be construed to prohibit vehicles from carrying business markings or advertising not otherwise prohibited by law, nor shall they prohibit delivery of merchandise which was not sold or purchased on public streets.

History: 01/99, 9/04

15-11-46 Suspension and Revocation of License.

(1) In addition to any penalties that may be imposed, any license issued under this Chapter may be suspended or revoked for any of the following reasons:

- (a) Fraud, misrepresentation, or knowingly false statement contained in the application for the license;
- (b) Fraud, misrepresentation, or knowingly false

statement in the course of carrying on the business of vending;

(c) Conducting the business of vending in any manner contrary to the conditions of the license;

(d) Conducting the business of vending in such a manner as to create a public nuisance; cause a breach of the peace; constitute a danger to the public health, safety, welfare, or morals; or interfere with the rights of abutting property owners; or

(e) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.

(2) The Official shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the licensee or permittee of the appeal procedure. Such notice shall be mailed to the address shown on the license holder's application by certified mail, return receipt requested.

(3) If the City revokes a vending license or permit, the fee already paid for the license or permit shall be forfeited. A person whose license or permit has been revoked under this Section may not apply for a new license for a period of one year from the date that the revocation took effect.

History: 01/99

15-11-47 Appeals.

(1) If the Official denies the issuance of a license or permit, suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may appeal the Official's decision to the License Hearing Board in accordance with Section 15-4-6. of the City Code.

(2) The filing of an appeal stays the action of the Official in suspending or revoking a license or permit or any part of the business operation being conducted under such license or permit until the License Hearing Board makes a final decision, unless the Official determines that continued operation of the vending business constitutes an imminent and serious threat to the public health or safety, in which case the Official shall take or cause to be taken such action as is necessary to immediately enforce the suspension, revocation, or order.

History: 01/99

15-11-48 Renewals. A vending license may be renewed, provided an application for renewal and license fees are received by the City no later than the expiration date of the current license. Any application received after that date shall be processed as a new application. The Official shall review each application for renewal and, upon determining that

the applicant is in full compliance with the provisions of this Chapter, shall issue a new license.

History: 01/99

15-11-49**Construction.** No part of this Chapter or the Chapter itself shall be construed to be an amplification or derogation of the rights or responsibilities of abutting property owners. Any remedies, rights, or obligations provided to such property owners or their successors in interest under the law of real property or the laws of the State of Utah shall be in addition to the remedies, rights, obligations, or penalties provided hereunder.

History: 01/99

PART 3 – TEMPORARY BUSINESS

15-11-51**License Required.** It is unlawful for any person to engage in, carry on, or conduct a temporary business in the City without first obtaining a license. Temporary businesses shall be subject to the regulations of this Title.

History: 01/99

15-11-52**License Fee.** The license fee for engaging in, carrying on, or conducting a temporary business shall be as stated in the Consolidated Fee Schedule.

History: 01/99

15-11-53**Participant License Required.** A participant shall not be required to obtain the license required by Section 15-11-50, but it is unlawful for a participant to transact any business at a sales event without obtaining a license therefore and without acting under a licensed temporary business sponsor. Participants shall be subject to the regulations of this Title.

History: 01/99

15-11-54**Temporary Business Sponsor License Required.** It is unlawful for any person to act in the capacity of a temporary business sponsor in the City without first obtaining a license. Temporary business sponsors shall be subject to the regulations of this Title.

History: 01/99

15-11-55**Temporary Business Sponsor License Fee.** The license fee for a temporary business sponsor shall be as stated in the Consolidated Fee Schedule.

History: 01/99

15-11-56**Information Required for Participation in Sales Events.**

(1) A temporary business sponsor or a licensed temporary business must submit to the Business

License Official, at least 15 days prior to a sales event, the following information:

- (a) A list of all participants, including their names and addresses;
- (b) The location of the sales event; and
- (c) The dates of commencement and termination of the sales event.

(2) In the event the temporary business sponsor shall desire to add additional participants after the above information has been submitted, the sponsor must notify the official and update the list of participants. Updates submitted less than 15 days prior to a sales event shall be charged a late fee established in the consolidated Fee Schedule.

History: 01/99

15-11-57**Determination of Status – Appeals.**

(1) In case an applicant shall claim to be a permanent merchant and is required to take out a license upon the ground that the applicant is a temporary merchant, the Official shall notify the applicant in writing.

(2) The applicant may appeal the Official's decision to the License Hearing Board, pursuant to Chapter 15-4-6 of this Title.

History: 01/99

15-11-58**Each Sale Without a License – Separate Offense.** The sale of each article by a temporary merchant, a temporary merchant sponsor, or a participant without a license therefore shall be a separate offense under, and a separate violation of, this Chapter.

History: 01/99

15-11-59**Bond.** All temporary business sponsors shall furnish to the Division a bond or letter of credit in the amount of \$5,000.

History: 01/99

Chapter 12. Sale and Use of Fireworks

- 15-12-1 Definitions
- 15-12-2 Sale, Discharge and Possession of Fireworks Restricted
- 15-12-3 Application to Sell Fireworks
- 15-12-4 Posting of License
- 15-12-5 Regulations Governing All Retail Sales Locations
- 15-12-6 Permanent Structures
- 15-12-7 Temporary Stands
- 15-12-8 Seizure of Fireworks – Suspension or Revocation of License
- 15-12-9 Days When Fireworks May Be Sold
- 15-12-10 Days When Fireworks May Be Discharged
- 15-12-11 Discharge of Fireworks Restricted
- 15-12-12 Businesses Exempt from This Chapter

15-12-1 Definitions. Definitions listed below are generally accepted by the industry, however the State Fire Marshal Office, State of Utah, periodically publishes definitions in conjunction with the “Approved Fireworks List”. Where a conflict exists between the Fire Marshal Definitions and those contained in this ordinance, the Fire Marshal Definitions take precedence.

Firework means any composition or device manufactured or used for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation but does not include model rockets, toy pistol caps, emergency signal flares, snakes or glow worms, party poppers, wire sparklers under 36 inches in length, matches, or class “A” and “B” explosives.

Ground and hand-held sparkling device means:

- (1) Any cylindrical tube or fountain not exceeding $\frac{3}{4}$ ” of inside diameter and containing not more than 75 grams of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;
- (2) Any cardboard or heavy paper cone (cone fountain) containing up to 50 grams of pyrotechnic composition which produces a shower of color and sparks upon ignition and may whistle or pop;
- (3) Any cylindrical tube, or illuminating torch containing up to 100 grams of pyrotechnic composition which produces colored fire upon ignition;
- (4) Any pyrotechnic device or wheel capable of being attached to a post or tree containing up to six “driver” units or tubes not exceeding $\frac{1}{2}$ ” in inside diameter that each contain not more than 60 grams of pyrotechnic composition per driver unit which revolves upon ignition producing a shower of color and sparks and sometimes a whistling effect;

(5) Any device similar in design and effect to a “wheel” capable of being placed on the ground (ground spinner) and ignited; and

(6) Any narrow paper fuseless tube (filter sparkler) filled with pyrotechnic composition that produces color and sparks when the popper at one end of the tube is ignited.

Ground Audible Device means any paper or cardboard tube containing not more than 50 milligrams of pyrotechnic material that travels along the ground (chaser) upon ignition and often produces a whistling and/or popping effect.

Combination Fireworks Device means any device containing combinations of two or more of the effects described in subsection (1) or (2).

Trick Noisemaker means:

(1) Any tube or sphere containing pyrotechnic composition that upon ignition produces white or colored smoke (smoke device) as its primary effect; and

(2) Any device that produces a small report intended to surprise the user, including;

(a) A **booby trap** which is a small tube with a string protruding from both ends that ignites the friction-sensitive composition in the tube when the string is pulled;

(b) A **snapper** which is a small paper-wrapped device containing a minute quantity of explosive composition coated on bits of sand which explodes producing a small report;

(c) A **trick match** which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

(d) A **cigarette load** which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when the cigarette is ignited; and

Auto Burglar Alarm which is a tube which contains pyrotechnic composition that produces a loud whistle and smoke when ignited. A small quantity of explosive, not exceeding 50 milligrams, may also be used to produce a small report. A squib is used to ignite the device.

Permanent Structure means an unmovable building, securely attached to a foundation, housing a business licensed to sell merchandise in addition to fireworks.

Retail Sales Locations means both permanent structures and temporary stands where fireworks are sold.

Temporary Stand means a nonpermanent structure

used exclusively for the sale of fireworks.

History: 06/99

15-12-2 Sale, Discharge and Possession of Fireworks Restricted.

It is a Class "B" misdemeanor for any person to sell or offer for retail sale, or to discharge, or to have in their possession any fireworks in Clinton City, other than those fireworks listed on the "Approved Fireworks List" published by the State Fire Marshal Office, State of Utah. The State Fire Marshal Office publishes the "Approved Fireworks List" on a periodic basis; the most current list applies to fireworks within Clinton City.

History: 06/99

15-12-3 Application to Sell Fireworks.

(1) In addition to the information required in Section 15-12-5., all applications for a license to sell fireworks shall:

(a) Set forth a proposed location where the fireworks are to be sold and whether the location is a temporary stand or in a permanent structure.

(b) Be accompanied by certificates of insurance evidencing liability coverage in the minimum amount of \$1,000,000.00 and property damage coverage in the minimum amount of \$1,000,000.00 and naming the City as an additional insured. The certificates of insurance shall state that the City will be given 10 days written notice prior to any cancellation of the insurance by the insurance company.

(c) Be accompanied by a certificate of insurance evidencing product liability coverage in a minimum amount of \$1,000,000.00.

(d) Be accompanied by a copy of the applicant's Utah Sales Tax License.

(2) Applications shall be made a minimum of 3 working days prior to the time when the applicant wishes to begin selling fireworks within the time constraints set forth in this Chapter.

History: 06/99

15-12-4 Posting of License.

(1) Licenses issued pursuant to this Chapter shall be posted in a conspicuous place in a temporary stand and in a conspicuous place in the vicinity of the fireworks in a permanent structure.

(2) The license shall be available for presentation upon request to duly authorized officials.

History: 06/99

15-12-5 Regulations Governing All Fireworks Retail Sales Locations.

(1) All retail sales locations shall be under the direct supervision of a responsible person who is 18 years of age or older. A salesperson shall remain at the sales location at all times unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or the merchandise is removed.

(2) Fireworks shall not be sold to any person under the age of 16 years, unless accompanied by an adult.

(3) All retail sales locations shall be kept clear of dry grass or other combustible material for a distance of at least 25 feet in all directions.

(4) Storage of fireworks for sale shall not be located in residential areas.

(5) Smoking shall not be permitted within 50 feet of any fireworks, either on display for retail sale or being stored. "Smoking Prohibited Within 50 Feet" or similarly worded signs shall be conspicuously posted at all sales and storage locations. Sign lettering shall be not less than 2" high with a minimum 3/8" stroke on a contrasting background.

(6) A sign, clearly visible to the general public, shall be posted at all fireworks sales locations, indicating the legal dates for discharge of fireworks as set forth in this Chapter. Sign lettering shall be not less than 1" high with a minimum 3/16" stroke on a contrasting background.

(7) All retail sales locations shall be equipped with an approved portable fire extinguisher having a combined rating of at least 2A 10BC.

(8) No amount of retail storage or retail sales of fireworks shall, by its presence, create a distinct hazard to the life or safety of the customer, employee or property.

(9) All retail fireworks sales shall be located in permanent structures or temporary stands, as defined in the Chapter.

History: 06/99

15-12-6 Permanent Structures.

(1) Display of fireworks inside permanent structures shall be subject to the following restrictions:

(a) Up to 250 pounds of fireworks, display of fireworks is unrestricted.

(b) From 251 pounds to 500 pounds of fireworks, display of fireworks must be within constant visual supervision.

(c) Above 500 pounds of fireworks, display of fireworks must be constantly attended by a sales person.

(2) In permanent structures, the area where fireworks are displayed or stored shall be at least 50 feet from

any flammable liquid or gas, or other highly combustible material. Fireworks shall not be stored, including stock for sale, near exit doorways, stairways, or in locations that would impede egress.

(3) Fireworks shall be stored, handled, displayed and sold only as packaged units with unexposed fuses within permanent structures.

History: 06/99

15-12-7 Temporary Stands.

(1) Temporary stands shall meet the requirements of the latest edition of the Uniform Building Code adopted by the City. Each licensee shall pay the inspection fee and shall be inspected prior to any sales.

(2) Each temporary stand shall have a minimum of two approved exit doors, which swing out at opposite ends of the stand. Door locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.

(3) Each temporary stand shall have a minimum three-foot wide unobstructed aisle running the length of the stand, inside and behind the counter.

(4) The pass-through openings for temporary stands shall be arranged to permit the customer to view the merchandise for sale but prevent the touching or handling of unpackaged fireworks by the customer.

(5) Temporary stands shall be located in properly zoned areas, at least 100 feet from other temporary stands, LPG, flammable liquid or gas storage and dispensing units.

(6) If the temporary stand is used for overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry.

(7) Temporary stands shall not be illuminated or heated by any device requiring an open flame or exposed heating elements. All heaters and light devices shall be approved by the authority having jurisdiction. Permanent or temporary wiring and the use of extension cords are prohibited.

(8) The general public shall not be allowed to enter a temporary stand.

(9) A person shall not be allowed to sleep in a temporary stand.

(10) A temporary stand shall be removed within seven days after the sales period has ended, as provided in this Chapter.

History: 06/99

15-12-8 Seizure of Fireworks – Suspension or Revocation of License.

(1) Fireworks sold or offered for sale in violation of this Chapter may be seized and destroyed and the license of the person selling or offering fireworks for sale may be suspended.

(2) Other violations of this Chapter may be grounds for seizure of the fireworks and suspension of revocation of the license.

History: 06/99

15-12-9 Days When Fireworks May be Sold.

Fireworks may be sold on or between June 20 and July 25; on or between December 20 and January 2; and 15 days before and on the Chinese New Year.

History: 06/99

15-12-10 Days When Fireworks May Be

Discharged. Fireworks may be discharged three days prior to, on the day of and three days following July 4, July 24, January 1, and the Chinese New Year.

History: 06/99

15-12-11 Discharge of Fireworks Restricted.

(1) It shall be unlawful to discharge any fireworks within 100 feet of temporary stands, LPG, flammable liquid, or gas storage and dispensing units.

(2) It shall be unlawful to discharge any fireworks within 20 feet of any residence, dwelling or other structure.

(3) It shall be unlawful to discharge any fireworks in public rights-of-way, parks, or other public properties.

History: 06/99

15-12-12 Businesses Exempt from This Chapter.

(1) This Chapter does not apply to the product inventories of fireworks manufacturers, importers, distributors or wholesalers designed for shipment directly out of the State.

(2) Fireworks displays sponsored by the City.

(3) Applicants for a public display of fireworks or theatrical use of fireworks with a valid permit issued by the Clinton City Fire Department. Applicants shall:

(a) Complete an “Application for Public Display of Fireworks” provided by the Clinton City Fire Department which shall;

(i) Be accompanied with a site plan of location where the fireworks are to be discharged and viewed;

(ii) Be accompanied with a list of fireworks to be discharged;

(iii) Be accompanied with the location of storage, if

within the city;

(iv) Be accompanied with a certificate, acceptable to the Fire Chief, from the owner of the property where fireworks will be discharged and viewed;

(v) Be accompanied by certificates of insurance evidencing liability coverage in the minimum amounts of \$1,000,000.00 and property damage coverage in the minimum amount of \$1,000,000.00 and naming the City as an additional insured. The certificates of insurance shall state that the City will be given 10 days written notice prior to any cancellation of the insurance by the insurance company;

(vi) Be accompanied by a certificate of insurance evidencing products liability coverage in a minimum amount of \$1,000,000.00;

(vii) Be accompanied by a copy of the applicant's Utah State license as applicable; and

(b) Applications shall be made a minimum of 15 working days prior to the date of display.

History: 06/99

Chapter 13. Towing Services

- 15-13-1 Definitions
- 15-13-2 License
- 15-13-3 Duty to Display License
- 15-13-4 Rotation
- 15-13-5 City Impounds

15-13-1 Definitions.

Rotation List means a list of tow trucks or tow truck services maintained by Clinton City that have valid licenses and who request in writing of Clinton City the privilege of being called in sequence down the list to provide tow truck services to motorists when a motorist requests the City's assistance in obtaining a tow truck or tow truck service.

Tow Truck means a motor vehicle which has been altered or designed, equipped and used for the purpose of towing vehicles by means of a crane, hoist, tow bar, tow line, chain or dolly.

Tow Truck Service means the transportation upon the public streets, public places and highways of the City of damaged, disabled, or abandoned vehicles, together with personal effects and/or cargo, by towing only wrecker service, tow car service and garage tow truck service are synonymous and shall be termed "tow truck service".

History: 01/99

15-13-2 License.

(1) A license shall be issued to tow trucks or tow truck services with a principal place of business within the corporate limits of the City upon proof being presented to the City by the applicant and that each of the following requirements have been and will continue to be met by the applicant:

- (a) Complete compliance with the current Utah Department of Transportation rules and regulations for tow truck operators;
- (b) Issuance of a Department of Transportation certificate for each tow during the policy term of the license;
- (c) Competent evidence of valid towing property damage liability insurance, not less than \$25,000, issued with applicant named as insured, including the policy number and insurance company name for the business and the tow truck;
- (d) Permanent readable signs on the doors of the tow truck listing the name of the applicant, address and telephone number;
- (e) Competent evidence of surety bond of \$1,000 from good and sufficient sureties to ensure continued compliance with these ordinances;

(f) Competent evidence that the tow truck service or tow truck tows and stores motor vehicles in a secured fenced or enclosed yard or building for the storage of motor vehicles, unless otherwise required by the State of Utah;

(g) All tow trucks must be operated by competent personnel carrying a certification card issued by the Utah Department of Transportation and a proper and valid Utah drivers license which allows for operation of a tow truck:

(h) Competent evidence that all business operations are conducted in a fair, equitable and lawful manner.

(i) Competent evidence that suggested tow and storage fees are those established by the Utah Towing Association.

History: 01/99

15-13-3 Duty to Display License. Every tow truck operator shall carry upon his person:

- (1) A proper and valid Utah driver's license which allows for operation of a tow truck;
- (2) Evidence of a proper and valid license issued by the City;
- (3) Evidence of a personal certification card issued by the Utah Department of Transportation; and
- (4) All other identification required by law.

History: 01/99

15-13-4 Rotation.

- (1) To qualify for rotation, a tow truck service shall comply with all of the requirements of this Chapter and other ordinances of the City.
- (2) The Police Department has the authority to promulgate all rules and regulations governing a rotation system.
- (3) The rotation system shall be followed unless a valid contract has been issued by the City.

History: 01/99

15-13-5 City Impounds. The City may enter into contracts with tow trucks, tow services, and tow lot companies to ensure safe and economical storage and transportation of motor vehicles impounded by the City.

History: 01/99

Chapter 14. Civil Rights

- 15-14-1 Short Title
- 15-14-2 Declaration of Policy
- 15-14-3 Declaration of Civil Rights
- 15-14-4 Equal Rights in Places of Public Accommodation, Resort or Amusement
- 15-14-5 Exclusion, Segregation and Discrimination Prohibited in Places of Public Accommodation, Resort or Amusement
- 15-14-6 Places of Public Accommodation, Resort or Amusement Defined
- 15-14-7 Extent of Personal Responsibility
- 15-14-8 Penalty for Violation
- 15-14-9 Suspension or Revocation of License

15-14-1 Short Title. This Chapter shall be known as Clinton City Civil Rights Ordinance.

History: 01/99

15-14-2 Declaration of Policy. It is hereby declared to be the policy of Clinton City in the exercise of its police power for the protection of the public welfare, health, safety and peace of the City and the inhabitants thereof, to prohibit discrimination in places of public accommodation, resort or amusement due to race, color, religion, ancestry or national origin.

History: 01/99

15-14-3 Declaration of Civil Right. All persons have the right to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, resort or amusement within the City subject only to the conditions and limitations established by law and applicable alike to all persons. The right is recognized and declared to be a civil right.

History: 01/99

15-14-4 Equal Rights in Places of Public Accommodation, Resort or Amusement. No person being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement within the City shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, and no person shall directly or indirectly publish, circulate, issue, display, post or mail or cause to be published, circulated, issued, displayed, posted or mailed within the City any written, painted or printed communication, notice or advertisement to the effect that any of the accommodations, advantages, facilities and privileges of a place of public accommodations, resort or amusement shall be refused, withheld from or denied to any person on

account of race, color, religion, ancestry or national origin, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race, color, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited. The production of any such written, painted or printed communication, notice or advertisement, purporting to relate to any such place and to be made any person being the owner, lessee, proprietor, superintendent, manager, agent or employee thereof, shall be presumptive evidence in any proceedings that the same was authorized and published by such person.

History: 01/99

15-14-5 Exclusion, Segregation and Discrimination Prohibited in Places of Public Accommodation, Resort or Amusement. Any exclusion or segregation of or discrimination against any person on account of race, color, religion, ancestry or national origin in places of public accommodation, resort or amusement within the City shall be unlawful.

History: 01/99

15-14-6 Places or Public Accommodation, Resort or Amusement Defined. A place of public accommodation, resort or amusement within the meaning of this Chapter shall be deemed to include inns, taverns, roadhouses, motels, hotels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, restaurants, eating houses and any place where food is sold for consumption on the premises, buffets, saloons, barrooms, and any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises; dispensaries, clinics, hospitals, bathhouses, theaters, motion picture houses, music halls, concert halls, circuses, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, public libraries, garages, all public conveyances operated on land, water or in the air, as well as the stations and terminals thereof; public halls and public elevators of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants. Nothing herein contained shall be construed to include any institution, club or place of accommodation which is in its nature distinctly private.

History: 01/99

15-14-7 Extent of Personal Responsibility. The provisions and requirements of this Chapter shall bind and obligate every owner, lessee, operator, proprietor, manager, agent and employee, whether a natural person, corporation, or unincorporated association, engaged in or exercising control over the operation of any place of public accommodation resort or amusement; provided, that whenever any agent or employee shall so exercise any function or employ any power with which he is charged or entrusted as to violate any provisions of this Chapter, both he and his principal or employer shall be held equally responsible.

History: 01/99

15-14-8 Penalty for Violation. Any person who or any agency, bureau, corporation or association which shall willfully violate any of the provisions of this Chapter or who or which shall aid or cause the violation of any of said provisions shall be deemed guilty of a Class “B” misdemeanor.

History: 01/99

15-14-9 Suspension or Revocation of License. Whenever it shall have been judicially determined that a licensee or person operating or doing business under a license has violated this Chapter in the course of such operation or business two times or more within any 12 –month period, the Official shall suspend or revoke such license as provided in this Title.

History: 01/99

Chapter 15. Rental Dwelling Units

- 15-15-1 Definitions
- 15-15-2 License Required
- 15-15-3 Exception
- 15-15-4 Penalty
- 15-15-5 License Fees

15-15-1 Definitions.

Multiple Family Dwelling Unit shall mean any building(s) or apartment building(s) so arranged, designed, built, rented, loaned, let or hired out to be used or occupied as the home, residence or dwelling unit of four or more families living independently of each other. This definition includes four-plexes, even if the owner lives in one of the units.

Rental Dwelling Unit shall mean any individual dwelling unit that is rented, loaned, let or hired out to be used or occupied as a home or residence.

Owner shall mean the person having ownership. Person includes any individual, group of individuals, partnership, corporation, association or other legal entity.

History: 01/99

15-15-2 License Required.

(1) Every owner of a multiple family dwelling unit or of four or more rental dwelling units shall obtain and maintain current a business license and pay the base fee and variable fees as set forth in the Consolidated Fee Schedule.

(2) If there is more than one owner, including purchases under contract, each owner shall be jointly and severally liable to pay the business license fee.

History: 01/99

15-15-3 Exception. Every owner of less than four rental dwelling units shall be exempt from licensing under this Title.

History: 01/99

15-15-4 Penalty. Any person or party who violates the provisions of this Chapter shall be deemed guilty of a Class "C" misdemeanor.

History: 01/99

15-15-5 License Fees.

(1) Owners of multiple family dwelling units or rental dwelling units shall pay the base fee and

(2) The base business license fee shall be paid at the time of application for a new or renewal license.

(3) The business and Business License Official may, with the approval of the City Manager, establish a payment plan or plans which allow the licensee to

pay the per-unit fees in two, three, or four equal installment payments, made at regular intervals during the term of the license.

(4) Failure to timely make a payment required pursuant to a payment plan as described above may result in the suspension or revocation of the license and the imposition of penalty fees as set forth in this Title.

History: 01/99

Chapter 16. Film/Filming requirements and Procedures.

15-16-1	Permit Required
15-16-2	Fees
15-16-3	Application Prerequisites
15-16-4	Permit Process
15-16-5	Film/Filming Requirements and Restrictions

15-16-1 Permit Required.

(1) Producers of motion picture, videotape or still photograph productions (herein after referred to as “film/filming” which take place within Clinton City must obtain a City film permit prior to the start of any filming.

(2) Bona fide news coverage and filming/videotaping/still photography done for private family use is exempt from this requirement.

(3) Applications for a film permit should be submitted at least ten (10) working days before filming is to begin.

(4) Productions that will interfere with traffic, that involves construction of sets or potential safety hazards, and/or are to be filmed within the central business district must have their applications submitted at least fifteen (15) working days in advance. Additional time may be needed when personnel from the City, police, fire, public works, etc. are requested.

15-16-2 Fees. Fees associated with film permits will be established by the City Council, from time to time, by resolution and published in the Clinton City Consolidated Fee Schedule.

15-16-3 Application Prerequisites. No permit application is considered submitted until all of the applicable items below, and any additional information that has been requested, has been provided.

(1) Property Owner’s Permission: For productions that take place on property not owned or controlled by the City, applicants must obtain written permission from the property owner(s) and tenant(s) and/or enter into a lease agreement for the use of the property. Copies of the permission or agreement must be provided to the City prior to the issuance of a film permit.

(2) Neighboring Property Notification:

(a) Applicants must provide written notification to all property owners and tenants within 300 feet of the film/filming location at least ten (10) days prior to the filming date. For productions taking place in the central business district, as described in the Zoning

Ordinance, all property owners and tenants within the area must receive written notification at least fifteen (15) days prior to the shooting date.

(b) Notification must state that property owners should file any concerns, in writing, with the City at least five (5) days prior to the filming date.

(c) Notification must include the date(s), times, and location of proposed filming; a description of all planned activities, and; proposed parking arrangements. The notification must indicate that the producer has applied for a film permit from Clinton City; there is no presumption that a film permit will be granted just because an application has been filed.

(d) While there is no requirement that 100% of the neighboring properties or businesses must agree to the issuance of a filming permit, the City will seriously consider the property owner’s concerns and make sure they are adequately addressed. Therefore, applicants are encouraged to work closely with all affected property owners and businesses to ensure their concerns are addressed. Doing so can help avoid delays or denial of a film permit application.

(3) Parking Plan:

(a) A parking plan for all vehicles associated with the production, including equipment vans, trailers, dressing rooms, catering trucks, craft services, and personal transportation for cast and crew, must be submitted with the permit application.

(b) Parking in “no parking” areas will only be allowed with prior clearance from the Clinton City Police Department.

15-16-4 Permit Process. Permit requests will be processed through the Community Development Department. The Department will process requests through the appropriate departments within the City for comment and direction. The applicant may be contacted directly by individual departments with requests for clarification or additional information.

(1) Applications will be filed on a form provided by the Community Development Department with information and drawings attached as necessary. As a minimum construction, traffic flow, and site drawings will be provided in triplicate. Additional drawings may be needed related to pyrotechnic and burn requests, these will also be provided in triplicate.

(2) Information for permit applications shall include but not be limited to:

(a) Set Construction and Electrical Plans.

(3) Construction of set pieces may require the approval of the City’s Building Official. Three copies of blueprints and engineering, if any, of any proposed sets must be submitted with the permit

application.

(4) Site plans showing structure locations, proposed cable runs, parking areas, and appropriate protection/safety measures. Permission to string cables across public streets and sidewalks, or from generators to service points will be evaluated as part of the permitting process.

(5) Proof of Insurance. With the permit application applicants shall provide the City with Certificate of Insurance evidencing:

(a) \$2,000,000 worth of Public Liability Insurance, with Clinton City Corporation its officers, officials and employees named as additional insured: and,

(b) Compliance with all applicable requirements for Workers Compensation.

(6) Hold Harmless Agreement. Applicants shall execute a Hold Harmless Agreement (as provided by the City) and submit it with the application.

(7) Fire Permit. Permit applications will be processed through the Clinton City Fire Department. Permits will not be issued without Fire Department approval.

(8) Police Services: Required or requested police services can be provided by the Clinton City Police Department and will be processed through the Clinton City Police Chief. Application is to provide adequate information so that any need for police services is clearly explained, to include dates, times, specific reason (traffic control, security, etc.), and number of officers.

(a) Once the permit has been approved the applicant may make arrangements with off duty police officers for scheduling.

(b) Certified officers from other jurisdictions may be utilized when Clinton officers are not available.

(c) Use of any officers, Clinton City or otherwise, is to be approved by the Clinton City Chief of Police.

(d) Cancellation of police services will be as established with the individual officers; however applicant is to inform the Clinton City Chief of Police of any changes in the schedule.

(9) Fire and Ambulance Services. Required or requested fire and ambulance services can be provided by the Clinton City Fire Department and will be processed through the Clinton City Fire Chief. Application is to provide adequate information so that any need for these services is clearly explained, to include dates, times, specific reason (fire standby, ambulance standby, hazmat, extinguish burn, etc.) and number and type of vehicles required.

(a) All activities related to the filming must meet the existing fire Code adopted by the State of Utah (International Fire Code).

(b) An inspection of the site will be required.

(c) Obtain appropriate permits; pyrotechnics, flame effects (NFPA 160)

(d) Fees for fire services will be established by the Clinton City Council, from time to time, adopted by resolution and published in the Clinton City Consolidated Fee Schedule.

(10) Request for filming at City Facilities. Certain City parks, buildings, and other facilities are available for rental as movie/still photography locations. A separate application and fee is required to obtain use of these facilities. For information, scheduling and to obtain an application, contact the City Recreation Department. The City Manager is the final approving authority for use of City facilities.

15-16-5 Film/Filming Requirements and Restrictions.

Permittees shall conduct all operations in an orderly fashion with continuous attention to the safe storage of equipment not in use and the cleanup of trash and debris upon completion of shooting. To ensure proper cleanup and restoration of the site, the City may require an applicant to post a "faithful performance" bond.

(1) Hours of Operation: All activity, including filming, set-up, or dismantling, is typically limited to between the hours of 7:00 a.m. and 7:00 p.m. Activity outside of these hours will be considered provided there is no unreasonable disruption and all possible attempts to mitigate impact to neighboring properties are balanced under §15-16-3(2)(b).

(2) Traffic Flow:

(a) For film/filming that will impede traffic flow, the applicant must consult with the Clinton City Police Department prior to the issuance of a permit.

(b) Street or sidewalk closures are rarely allowed, intermittent traffic control is preferred.

(c) Permittees must follow all police directives and take all appropriate safety precautions, including the installation of advance warning signs and any other traffic control devices in conformance with the Manual of Traffic Controls.

(3) Noise: Noise shall be maintained at a reasonable level, especially noise from electrical generators. No gunfire, explosions, sirens, public address systems, or other noise-creating devices shall be used without specific permit from the City.

History: 4/09

Chapter 17. Sexually-Oriented Businesses

Section A General Provisions, Purposes

- 15-17A-1 Title of Citation
- 15-17A-2 Purpose of Provisions
- 15-17A-3 Application of Provisions
- 15-17A-4 Obscenity and Lewdness - Statutory Provisions
- 15-17A-5 Definitions

15-17A-1 Title of Citation. The provisions codified in this Chapter shall be known and may be referred to as the “Sexually-Oriented Business and Employee Licensing Ordinance.”

15-17A-2 Purpose of Provisions. It is the purpose and object of this Chapter that the City establishes reasonable and uniform regulations governing the time, place and manner of operation of sexually-oriented businesses and their employees in the City. This Chapter shall be construed to protect the governmental interest recognized by this Chapter in a manner consistent with constitutional protection provided by the United States and Utah Constitutions.

15-17A-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 ordinance.

15-17A-4 Obscenity and Lewdness - Statutory Provisions.

(1) 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 the City of Clinton Municipal Code or other applicable federal or State statutes prohibiting obscenity.

(2) Notwithstanding anything contained in this Chapter, nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of Utah State Code § 76-9-702, 76-9-702.5 & 10-8-41. Provided, however, that for the purpose of sexually-oriented businesses the definition of “private parts” shall be construed to mean “nudity” as defined in this Chapter.

(3) Nothing in this Chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to provisions of Utah State Code § 76-10-1201, 76-10-1206, 76-10-1227, and 76-

10-1228, more specifically.

15-17A-5 Definitions. For the purpose of this Chapter, the following words shall have the following meanings:

“Adult bookstore, adult novelty store or adult video store” means a commercial establishment which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior business or advertising, or maintains a significant or substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

(1) Minors are excluded from a significant or substantial portion of the retail floor or shelf space of the premises; or

(2) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas; or

(3) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

“Adult Business” means an adult motion picture theater, adult theater, adult bookstore, adult novelty store or adult video store.

“Adult Motion Picture Theater” means a commercial establishment which:

(1) Excludes minors from the showing of any exhibition; or

(2) 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.

“Adult Theater” means a theater, concert hall, auditorium or similar commercial establishment which:

(1) Holds itself out as such a business; or

(2) Excludes minors from the showing of any exhibition; or

(3) As its principal business, features persons who appear in live performances in a state of semi-nudity.

“Business License Authority” means the City’s

Business License Administrator or designee.

“Controlling interest” means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty (20) percent or more of any class of voting securities of a business. The ownership, control, or power to vote twenty (20) percent or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

“Distinguished or characterized by an emphasis on” means the dominant or principal theme of the object described by such a phrase. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas. The films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specified sexual activities.

“Employ, employee and employment” describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is designated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises or similar type of function.

“Nudity or state of nudity” means a state of dress in which the areola of the female breast, or male or female genitals, pubic region, anus or anal cleft are covered by less than the covering required in the definition of semi-nude.

“Opaque” means an impervious material or covering, having capacity to block out or obstruct the visual image of an object.

“Operate, operator or cause to operate” means to cause to function or to put or keep in a state of doing business. Operator means any person on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

“Park” means public land which has been designated for park or recreational activities, including but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the City which is under the control, operation, or

management of the City park and recreation authorities, including but not limited to the following existing parks and facilities: Clinton City Park, Clinton Pond Park, Heritage Park, Veterans Park, Meadows Park, Pioneer Park, Power-line Park, Kestrel Park, and West Clinton Park, as well as any future parks as outlined within the Clinton City Parks Master Plan.

“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.

“Pecuniary Compensation” means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.

“Person” means any applicant, individual, proprietorship, association, corporation, partnership or other legal entity.

“Protected Uses” means churches, public libraries, public parks or parkways, public recreation centers, public and private schools, and any residence or residential district.

“Semi-Nude” means a state of dress in which opaque clothing covers no less than the areola of the female breast; and the male or female genitals, pubic region, anus, anal cleft and vulva 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.

“Semi-Nude Dancing Agency” means any person agency, firm, or 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 or performance or appearance at a business licensed for adult theaters.

“Semi-Nude Entertainment Business” means a business, including adult theater, where employees perform or appear in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.

“Sexually-Oriented Business” means semi-nude entertainment business, adult businesses, adult bookstore, adult novelty store, adult theater, adult motion picture theater, semi-nude entertainment business and semi-nude dancing agencies, as defined by this Chapter.

“Sexually-Oriented Business Employees” means those employees who work on the premises of a sexually-oriented business in activities related to the sexually-oriented portion of the business. This includes all managing employees, dancers, 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.

"Specified Anatomical Areas" means:

- (1) Human male genitals whether or not in a state of sexual arousal; or
- (2) Less than completely and opaquely covered buttocks, anus, anal cleft, male or female genitals, or a female breast below a point immediately above the top of the areola.

"Specified Sexual Activities" means:

- (1) Acts of:
 - (a) Masturbation;
 - (b) Human sexual intercourse;
 - (c) Sexual copulation between a person and a beast;
 - (d) Fellatio;
 - (e) Cunnilingus;
 - (f) Bestiality;
 - (g) Pederasty;
 - (h) Buggery;
 - (i) Sodomy;
 - (j) Any copulation between a human male and another human male, human female, or beast;
 - (k) Excretory functions as part of or in connection with any of the activities set forth in (a) through (j) above.
- (2) Manipulating, stimulating, caressing or fondling by any person:
 - (a) The genitals of a human;
 - (b) The pubic area of a human; or
 - (c) The breast or breasts of a human female.
- (3) Flagellation or torture by or upon a person clad in undergarments, a mask or costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

"Transfer of ownership or control of a sexually oriented business" means any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control

of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

"Viewing room" means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette or other video production.

Section B Location Regulations

- 15-17B-1 Location and Zoning Restrictions
- 15-17B-2 Sexually Oriented Business- Additional Location Requirements
- 15-17B-3 Method of Measurement
- 15-17B-4 Single Location and Name
- 15-17B-5 Moving of Business Location

15-17B-1 Location and Zoning Restrictions. It is unlawful for any sexually-oriented business to do business at any location within the City not zoned for such business. Sexually-oriented businesses licensed as adult businesses or semi-nude entertainment businesses pursuant to this Chapter shall only be allowed in areas zoned for their use pursuant to Title 28 of the Code of Revised Ordinances of Clinton City. Businesses regulated by this chapter shall not be located closer than five hundred and fifty (550) feet from a collector street and shall not be closer than two hundred and fifty (250) feet to each other, from protected uses and no closer than two hundred (200) feet from the MP-1 zoning boundary.

15-17B-2 Sexually Oriented Business- Additional Location Requirements. It is unlawful for any business licensed as a sexually oriented business to be located within six hundred (600) feet of a business licensed for the consumption of alcohol or liquor.

15-17B-3 Method of Measurement. The six hundred (600) foot limitation is measured from the nearest property line of the business regulated by this chapter to the nearest property line of the other sexually oriented business or business licensed for the sale or consumption of alcohol, or area of protected use.

15-17B-4 Single 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 City under any name other than the business name specified in the application.

15-17B-5 Moving of Business Location. It is unlawful for any sexually oriented business, as

regulated herein, to relocate or otherwise move its location or area of operation. A sexually oriented business wanting to relocate must submit the appropriate application for a license as required under this chapter. Such application shall be reviewed under the terms and conditions of this chapter and applicable City ordinances.

Section C Licensing Provisions

- 15-17C-1 Business Categories- Number of Licenses
- 15-17C-2 Hours of Operation
- 15-17C-3 Business License Required
- 15-17C-4 License Application -Disclosures
- 15-17C-5 License Fees
- 15-17C-6 License Term
- 15-17C-7 License Display
- 15-17C-8 Issuance of Business License
- 15-17C-9 Transfer of Business License
- 15-17C-10 Notice of Change in Information
- 15-17C-11 Statement in Advertisement

15-17C-1 Business Categories- Number of

Licenses. It is unlawful for any business premises to operate or be licensed for more than one category of sexually-oriented business;

- (1) The categories of sexually-oriented businesses are:
 - (a) Adult book store, adult novelty store, adult video store;
 - (b) Adult business;
 - (c) Adult motion picture theater;
 - (d) Adult theater;
 - (e) Semi-nude dancing agency;
 - (f) Semi-nude entertainment business.

15-17C-2 Hours of Operation. No sexually oriented business shall operate between the hours of 1:00 a.m. and 10:00 a.m. of any day

15-17C-3 Business License Required. It is unlawful:

- (1) For any person to operate a sexually-oriented business as specified herein, without first obtaining a general business license and a sexually-oriented business license. The business license shall specify the type of business for which it is obtained.
- (2) For any person operating a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this ordinance.
- (3) For any person to obtain employment with a sexually oriented business without having secured a

sexually oriented business work permit pursuant to this chapter.

15-17C-4 License Application –Disclosures. Before any applicant may be licensed to operate a sexually-oriented business or as a sexually-oriented business employee pursuant to this Chapter, the applicant shall submit, on a form to be supplied by Clinton City Business License Administrator, the following:

- (1) The correct legal name of each applicant
- (2) If the applicant is a corporation, partnership, limited partnership or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten percent (10%) of the stock of any applicant. Any holding company or any entity holding more than 10 percent (10%) of an applicant shall be considered an applicant for purposes of disclosure under this Chapter.
- (3) All corporations, partnerships, or noncorporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or noncorporate entity to sign the checks for such corporation, partnership, or noncorporate entity.
- (4) For all applicants or persons, the application must also state:
 - (a) Any other names or aliases used by the individual;
 - (b) The 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 address and telephone number;
 - (i) Utah drivers license or identification number; and
 - (j) Social security number.
- (5) Acceptable written proof that a person is at least 18 years of age.
- (6) Attached to the form, as provided above, two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the City police department. For persons not residing in the City, the photographs and fingerprints shall be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency.

(7) For any individual applicant required to obtain a sexually-oriented business employee permit as an semi-nude entertainer, a certificate from the Davis County Health Department or a physician licensed by the State of Utah, stating that the individual has, within thirty days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases.

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

(9) A statement detailing the business license and permit history of the applicant for the five-year period immediately preceding the date of the filing of the application, including whether such applicant previously operated, in this or any other county, city, state, or territory, 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. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(10) All criminal convictions or pleas of no contest, except those which have been expunged, and the disposition of all such arrests for the applicant, individual, or other entity subject to disclosure under this Chapter, for five years prior to the date of application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of no contest and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers. Application for a sexually-oriented business or employee permit shall constitute a waiver of disclosure of any criminal conviction or plea of no contest for the purposes of any proceeding involving the business or employee permit.

(11) In the event the applicant is not the owner of record of the real property upon which the business or proposed business, is or is to be located, the application must be accompanied by 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. In addition to furnishing such notarized statement, the applicant

shall furnish 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 is or will be located.

(12) A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine 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. This description shall also include:

(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 activities.

(e) It is unlawful to knowingly submit false or materially misleading information on or with a sexually-oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually-oriented business or employee license.

15-17C-5 License Fees.

(1) Each applicant for a sexually-oriented business or employee permit shall be required to pay regulatory license fees as set forth in resolution by the Clinton City Council. An application is not complete until all appropriate fees have been paid.

(2) This fee shall be in addition to the other licenses and fees required to do business within the City, if applicable.

15-17C-6 License Term. Sexually-oriented business licenses issued pursuant to this Chapter shall be valid from the date of issuance through January 1st of each succeeding year. The license fees as required in this Chapter 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.

15-17C-7 License Display. It is unlawful for any sexually-oriented business location within the

boundaries of the Chapter to fail to display the license granted pursuant to this Chapter in a prominent location within the business premises.

15-17C-8Issuance of Business License. The City Business License Administrator shall approve the issuance of a license to the applicant within thirty (30) business 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;
- (2) The applicant is overdue in payment to the City 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 falsely answered a material question or request for information as authorized by this Chapter;
- (4) The applicant has violated a provision of this Chapter or similar provisions found in statutes or ordinances from any jurisdiction within two years immediately preceding the application; a criminal conviction for a violation of a provision of this Chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;
- (5) An applicant for the proposed business is in violation of or not in compliance with this Chapter or similar provisions found in statutes or ordinances from any jurisdiction;
- (6) An applicant has been convicted of or pled no contest to any of the following crimes: 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; 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:
 - (a) Less than two (2) years have elapsed from the date of conviction(s), if the conviction is of a misdemeanor offense, or less than five (5) years, if the convictions are of two or more misdemeanors within the five years; or
 - (b) Less than five (5) years have elapsed from the date of conviction, if the offense is a felony.

(7) The fact that a conviction, as outlined in subsection 6, is being appealed shall have no effect on the disqualification pursuant to this Section.

(8) The premises to be used for the business have been disapproved by Davis County Health Department, City Fire Department, City Police Department, City Building Official or City Zoning Official(s) as not being in compliance with the applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the City Business License Administrator an extension of time for their review of no more than fifteen (15) days. The total time for the City to approve or deny a license shall not exceed forty-five (45) days from the receipt of an application. Businesses located outside of the corporate boundaries of the City, 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;

(a) Upon receipt of an application all departments required to review the application shall determine within seven (7) days whether or not the application is complete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete.

(b) The time for processing applications specified in this Section shall begin to run from the receipt of a complete application.

(c) In the event that a license for a semi-nude entertainment, semi-nude dancing agency, adult business, or semi-nude entertainment business has not been approved within thirty (30) days or the forty-five (45) days allowed after an extension, the City shall issue a temporary license pending completion of the City's review.

(d) Any temporary license issued pursuant to subsection (c) above may be withdrawn by the City, if the completed review determines that the license should have been denied.

15-17C-9Transfer of Business License. Any sexually oriented business licenses granted under this chapter shall not be transferable.

15-17C-10Notice of Change in 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 work permit shall be given, in writing, to the Business License Administrator within fourteen (14) days after such change.

15-17C-11 Statement in Advertisement. It is unlawful for any advertisement by the sexually-oriented business or employee to fail to state that the business or employee is licensed by the City, and shall include the City license number.

Section D Additional Building Regulations

15-17D-1 Design of Premises

15-17D-2 Semi-nude Entertainment Business –
Design of Premises

15-17D-1 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 business. The design and construction, which must be completed 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 the 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 be 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 blueprint, unless required by State Construction Codes; 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 (1) of this Section remain unobstructed by any doors, walls, merchandise, display racks or any other materials, at all times that any patron is present 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 one 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.

15-17D-2 Semi-nude Entertainment Business - Design of Premises.

(1) It is unlawful for business premises licensed for semi-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 the 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.

(c) Provide any room in which the employee or employees and the patron or patrons are alone together.

(2) Adult theaters shall also require that any performance area shall be separated from the patrons by a stage, raised at least two (2) feet from the main floor level, and shall be separated a minimum of three (3) feet away, which separation shall be delineated by a physical barrier at least three (3) feet high.

Section E Employee Regulations

15-17E-1 Employee Work Permit

15-17E-2 Sexually Oriented Business

15-17E-3 Employee Work Permit Application –
Disclosure

15-17E-4 Exemption from License Requirements

15-17E-5 Legitimate Artistic Modeling

15-17E-6 Sexually Oriented Business Employee
Work Permit

15-17E-7 Change of Employee Information

15-17E-8 License Fees

15-17E-9 License Display

15-17E-10 Employee Conduct

15-17E-11 Inspection of Premises

15-17E-12 Alcohol Prohibited

15-17E-13 Performers -Prohibited Activities

15-17E-14 Patrons -Prohibited Activities

15-17E-1 Employee Work Permit. It is unlawful for any person to act as a sexually oriented business employee, without first obtaining a sexually oriented business work permit, as specified below in § 15-17E-16 et. seq.

15-17E-2 Sexually Oriented Business. It is unlawful for any sexually oriented business to employ, or for any individual to be employed as a sexually oriented business employee unless that employee first obtains a sexually oriented business employee work permit.

15-17E-3 Employee Work Permit Application – Disclosure.

(1) Upon the filing of a completed application for a sexually oriented business employee work permit, the business license administrator shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the City to deny or grant the work permit. An application shall be considered complete when it contains the information required in paragraphs a. thru e. as follows:

- (a) The correct legal name of each applicant;
- (b) Current business address and telephone number;
- (c) Identification issued by a federal or state governmental agency with the individual's date of birth, colored photograph, signature, and physical description;
- (d) The individual's fingerprints on a form provided by a public safety department; and
- (e) Each applicant must provide a statement of whether they have been convicted of or have pled guilty or no contest to a specified criminal activity as defined in this chapter, and if so, the specified criminal activity involved the date, place, and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

(2) A license or permit required by this Title is in addition to any other licenses or permits required by the city, county, or state to engage in the business or occupation. Persons engaged in the operation of an adult-oriented business or in employment in an adult-oriented business shall comply with all other applicable local, state, and federal laws, ordinances, and statutes, including zoning ordinances, as may be required.

(3) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the City on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order. The information provided by a sexually

oriented business license applicant in connection with the application for a license under this chapter shall be maintained by the business license official.

15-17E-4 Exemption from License Requirements.

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the State of Utah to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist, or psychologist while providing professional services for which they are licensed.

15-17E-5 Legitimate Artistic Modeling.

(1) The City 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 protection. The City does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling.

(2) In the event a nude model appearance is requested, a nude modeling permit must be applied for and obtained prior to the time the nude modeling is to take place. However, during such nude modeling appearance, it is unlawful to:

- (a) Appear nude in the presence of persons under the age of eighteen;
- (b) Allow, offer or agree to any touching by/of the contracting party or other person by the individual appearing nude or semi-nude;
- (c) Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committee activities harmful to a minor;
- (d) Allow, offer, commit or agree to any sex act as validly defined by City ordinances or State statute;
- (e) Allow, or agree to a person or persons to masturbate or to be masturbated in the presence of the individual contracted to appear nude or semi-nude.

15-17E-6 Sexually Oriented Business Employee Work Permit.

(1) Within thirty (30) days of the initial filing date of the receipt of a completed application, the business license official shall either issue a work permit or issue a written notice of intent to deny a license to the applicant. The business license official shall approve the issuance of a work permit unless one or more of the following is found by a preponderance of evidence to be true.

- (a) The applicant is less than eighteen (18) years of age;
- (b) The applicant has failed to provide information as required by Section 4 for issuance of a license or has falsely answered a question or request for information on the application form;

(c) The license application fee required by this section has not been paid;

(d) The applicant has been convicted of a specified criminal activity, as defined in this ordinance, or has been shown to have committed two or more violations of § 15-17E-10 of this chapter within the previous year.

(2) Sexually oriented business employee work permits may be obtained at any time throughout the year. All employee work permits will expire on the last day of the twelfth month following issuance.

(3) Sexually oriented business licenses and sexually oriented business employee work permits may be renewed only by making application and payment of a fee as provided for in this chapter. Application for renewal should be made at least ninety (90) days before the expiration date of said licenses and work permits, and when made less than ninety (90) days before the expiration date, the expiration of the license or work permit will not be affected.

15-17E-7 Change of Employee Information. Any change in the information required to be submitted under this chapter for a sexually oriented business work permit will be given, in writing, to the business license official within fourteen (14) days after such change.

15-17E-8 License Fees. Each applicant for a sexually oriented employee work permit shall be required to pay yearly regulatory license fees pursuant to the consolidated fee schedule as adopted by the City council.

15-17E-9 License Display. A sexually oriented business employee shall keep the employee's work permit on the premises where the licensee is working and shall, while working on the sexually oriented business premises, produce such work permit for inspection upon request by a law enforcement officer or other City official performing functions connected with the enforcement of this chapter.

15-17E-10 Employee Conduct. It is unlawful for any sexually oriented business licensee or sexually oriented business employee to knowingly or intentionally:

- (1) Allow persons under the age of eighteen years on the licensed premises;
- (2) To allow, offer or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises;
- (3) Allow the outside door to the premises to be locked while any patron or customer is in the licensed premises;
- (4) Allow, offer or agree to gambling on the licensed

premises;

(5) Allow, offer or agree to any sexually-oriented business employee touching or being touched by any patron or customer; whether clothed or unclothed, is prohibited;

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

(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 outcall employee or business, the outcall employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;

(10) Allow, offer, commit or agree to any specified sexual activity validly defined by City ordinances or State statute in the presence of any customer or patron;

(11) 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;

(12) To engage or allow any employee to engage in activity for the purpose of soliciting, beckoning, requesting or suggesting to any person(s) to enter such premises as a patron.;

(13) Allow, offer, or agree to commit a criminal act and specified sexual activity as defined in this Title;

(14) To allow an employee to act in a capacity of what is commonly known as a "lookout" to be stationed or maintained to give warning of the approach of any police officer to the premises of a sexually-oriented business or to maintain or operate any electrical or other device which is used or capable of being used to give warning to persons within the premises of sexually-oriented business of the approach of any police officer.

15-17E-11 Inspection of Premises. A police officer or other authorized officer may during the hours that the establishment is open for business, upon presentation of proper identification, inspect those portions of any premises in which a sexually-oriented business regulated under this Chapter is conducted that are open to or frequented by patrons and the records kept on the premises as required by this

Chapter. Such inspection shall be limited in scope to that necessary to determine compliance with the regulatory provisions of this Chapter.

15-17E-12 Alcohol Prohibited.

- (1) It is unlawful for any business licensed pursuant to this Chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the premises;
- (2) It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually-oriented business.

15-17E-13 Performers -Prohibited Activities. It is unlawful for any professional dancer, or performer, while performing in any business licensed pursuant to this Chapter, in addition to §15-16E-10:

- (1) To touch in any manner any other person;
- (2) To throw any object or clothing off the stage area;
- (3) Accept any money, drink or any other object directly from any person; or
- (4) Allow another person to touch such performer or place any money or object on the performer or within the costume or person of the performer; or
- (5) Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

15-17E-14 Patrons -Prohibited Activities. It is unlawful for any person, or any patron to knowingly or intentionally to:

- (1) Touch in any manner any performer or employee while on the premises of a sexually oriented business;
- (2) Place any money or object on or within the costume or person of any performer, or sexually oriented business employee;
- (3) Cross over any barrier separating the patrons from the stage during a semi-nude performance;
- (4) Bring into the premises any alcoholic beverage for on-premise consumption or not;
- (5) Give or offer to give to any performer any drinks, money or object while the performer is performing; except, that money may be placed on the stage and may be picked up by the performer by hand; or
- (6) Appear in a state of nudity on the premises of a sexually oriented business.

Section F General Applicability, Actions for Violations, Defenses

- 15-17F-1 Injunctions
- 15-17F-2 Suspension or Revocation
- 15-17F-3 Effect of License Revocation

- 15-17F-4 Appeal Procedure
- 15-17F-5 Violation – Penalty – Responsibility
- 15-17F-6 Severability

15-17F-1 Injunctions. 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.

15-17F-2 Suspension or Revocation.

- (1) The City may issue a notice suspending or revoking a sexually-oriented business or employee permit granted under this Chapter if a licensee, or an employee of the licensee has:
 - (a) Violated or is not in compliance with the provisions of this Chapter;
 - (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) Failure to pay a citation within the appropriate time frame,
 - (d) Given materially false or misleading information in obtaining the license;
 - (e) Knowingly operated the sexually-oriented business or worked under the employee permit 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 two or more occasions within a twelve (12) month period, a person or persons committed in or on, or solicited for in or on the licensed premises, 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;
 - (h) A license is delinquent in payment to the City for ad valorem taxes, or sales taxes related to the sexually-oriented business.
 - (i) Knowingly or intentionally allow a patron to commit any prohibited activity under § 15-16E-14.

(j) Knowingly or intentionally allow an employee to commit any prohibited activity under § 15-16E-10 or § 15-16E-13.

(2) Suspension or revocation shall take effect within fifteen (15) days of the issuance of notice, unless an appeal is filed as provided by this Chapter.

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

15-17F-3Effect of License Revocation. When a license issued pursuant to this Chapter is revoked, the revocation shall continue for one (1) year from its effective date, and the licensee shall not be issued a sexually-oriented business or employee permit for one (1) year from the date of such revocation.

15-17F-4Appeal Procedure. The denial, suspension, or revocation of any license issued pursuant to this Chapter may be appealed as set forth in Section 15-4-6(1) & 15-4-6(2) of the Code of Revised Ordinances of Clinton City.

15-17F-5Violation –Penalty –Responsibility.

(1) In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by an Authorized City Representative, require the licensee to pay a civil penalty in the amount of five hundred dollars. 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.

(2) Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the sexually-oriented business licensee and/or operator, if such act or omission occurs either with the authorization, knowledge, or approval of the licensee and/or operator’s negligent failure to supervise the conduct of the employee, and the sexually-oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

(3) A sexually-oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee’s license shall be revoked, suspended, or renewed.

15-17F-6Severability. Clinton City Municipal Code Title15-17 and each section and provision of said chapter there under, are hereby declared to be independent divisions and subdivisions and, not withstanding any other evidence of legislative intent,

it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.