

## TITLE 15. LICENSES

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### Chapter 1. General Provisions

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**15-1-1 Statement of Purpose.** The purpose of this Title is to protect the health, safety and welfare of the Clinton City residents by establishing regulations related to the issuance of business licenses and operation of business within the City. The objectives of this Title are:

- (1) To protect human life, health and the aesthetics of the City;
- (2) In the interest of public convenience, safety, and welfare;
- (3) To prohibit illicit operation of business;
- (4) To manage and control specific business;
- (5) To protect the environment;
- (6) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Title; and,
- (7) To establish guidelines when dealing with business.

*History: 10/10*

**15-1-2 Application.** This Title shall apply to all businesses and person's operating businesses in Clinton City.

*History: 10/10*

**15-1-3 Adoption.** All rules established in this Title, Licenses, and regulations related to business, items set forth in this Title are enacted and adopted and made a part of the City Code. Rules, regulations, and schedules adopted in connection with this Title may be cited and designated as the "Licensing Code" by reference to the respective Sections.

*History: 10/10*

**15-1-4 Fees.** The Clinton City Council shall set the amount of fees required to facilitate the actions outlined in this Title, from time to time, by resolution and published in the Clinton City Consolidated Fee Schedule. Consideration of fees shall include but not be limited to those needed to cover the cost of administration, inspections, reviews, publications, and related issues.

*History: 10/10*

**15-1-5 Responsibility of Administration.** The City Manager shall administer, implement, and enforce the provisions of this Title. Any powers granted or duties imposed upon the City may be

delegated by the City Manager to persons or entities acting in the beneficial interest of or in the employ of the City.

*History: 10/10*

**15-1-6 Office of Primary Responsibility.** The Clinton City Community Development Department is the Office of Primary Responsibility for review and proposing changes to this Title. The Community Development Director may call on other departments for assistance in reviewing this Chapter.

*History: 10/10*

**15-1-7 The Business License Official.** The Business License Official, or other person appointed by the City Manager, shall be responsible for the implementation of this Title to include but not limited to issue of licenses, record keeping, and enforcement of programs.

*History: 10/10*

**15-1-8 Definitions.** The following definitions shall be applicable throughout this Title unless a different meaning is clearly intended.

**“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 Licensing, 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.

**“Daycare Center, Family”** means any non-commercial, private residence being used by the owners/residents for the caring of a minimum of one (1) but not more than eight (8) children, including the owners / residents children under the age of six (6) for a minimum of three (3) but less than twenty-four (24) hours per day, in accordance with Utah Rule 430-90, Child Care Centers. With operators licensed by the Utah State Department of Health, Bureau of Child Care Licensing.

**“Daycare Center, Family Group”** means any non-commercial, private residence being used by the owners/residents for the caring of up to but not more than twelve (12) children, including the owners/residents children under the age of six (6), for a minimum of three (3), but less than twenty-four (24) hours per day, in accordance with Utah rule 430-90, Child Care Centers. With operators licensed by the Utah State Department of Health, Bureau of Child Care Licensing.

**“Employee”** means all individuals who work for an employer for salary 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.

**“Home Occupation”** means a portion of a private residence being used by the owners/residents conducting a business that the average neighbor, under normal conditions, WOULD be aware of its existence. The use of a portion of a dwelling as an office, studio or work room for occupations which are customarily conducted in the home and are incidental to the primary use as a home or residence. Home Occupations shall be in compliance with the regulations and provisions contained in Chapter 2 of this Title.

**“Home Office”** means a portion of a private residence being used by the owners/residents conducting a business that the average neighbor, under normal conditions, WOULD NOT be aware of its existence. The use of a portion of a dwelling as an office, studio or work room for businesses which are customarily conducted in the home and are incidental to the primary use as a home or residence. Home Offices shall be in compliance with the regulations and provisions contained in Chapter 2 of this Title.

**“License Official” or “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 therewithin any business, and also, any personal property which is either affixed to or is otherwise used in connection with the operation of any business.

**“Preschool, Residential Neighborhood”** means any non-commercial, private premises being used by the owners/residents for the instruction and care of up to

eight (8) children, related and unrelated, between the ages of three (3) and six (6) years of age for up to three (3) hours at any one time, conducted no more than five (5) times per week and where meals are not served. Preschool-age children of the owner/resident shall be included in the number of children allowed in the preschool.

**“Related Children”** means children for whom the child care provider is the:

- (1) Parent, legal guardian, or step-parent;
- (2) Grandparent, step-grandparent, or great-grandparent;
- (3) Sibling or step-sibling; or
- (4) Aunt, uncle, step-aunt, step-uncle, great-aunt, or great-uncle.

**“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.

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- (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, 04/12*

**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 Non-compliance 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.

(3) Any Person aggrieved by the decision of the License Official's final order, shall have the right to appeal to the City Manager by filing a written appeal with the License Official within ten (10) days following the effective date of the action or decision complained of. A time for hearing shall be fixed and not less than five (5) days notice thereof shall be given to the appellant. Following the hearing the City Manager shall make and enter findings of fact and an order, and that decision shall be final and conclusive.

A copy of the findings of fact, order, and decision shall be mailed to the appellant to the name and address provided in the written appeal.

(4) Any appeal of an order of the City Manager after a hearing on a summary action, or after a hearing on appeal from action of the License Official, may be filed in Davis County District Court.

*History: 3/80, 12/97, 01/99, 10/10*

**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.

(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.

(3) Upon the written request, with valid proof of IRS "501c(3)" status, to the Business License Administrator any license provided for in this title may be issued free of charge to any number of persons working solely for the benefit of any worthy charity or for a worthy public enterprise. However, if solicitor badges are required these shall be paid for. Appeals to the decision of the Business License Administrator may be made as set in § (1) above.

*History: 3/80, 01/99, 05/12, 8/12*

**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 license or alcoholic beverage license;
- (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, date of birth and home address of the person applying for the license;

*History: 10/10*

- (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 sales tax number, if applicable;
- (8) A state contractor's number, if applicable;
- (9) Proof that the business is state licensed or registered, if applicable; or ,
- (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 other departments as needed for review and comment.
- (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, 10/10*

#### **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 Enforcement.**

(1) Inspections. The License Official or the Authorized Officer shall make all investigations reasonably necessary to the enforcement of this Chapter. Any Authorized Officer is hereby empowered by the License Official to conduct investigations unless this Title specifically indicates who shall conduct an investigation. The City Council may authorize other City employees to conduct investigations. Persons inspecting Licensees, their businesses, or premise as herein authorized, shall report all violations of this Chapter or of other laws or City Codes to the License Official and shall submit any other reports as the License Official shall order. All individuals authorized hereunder to inspect Licensees and businesses shall have the authority to enter, with or without a search warrant and at all reasonable times, the following premise:

- (a) Those for which a license is required;
- (b) Those for which a license was issued and which at the time of inspection are operating under the license; and,
- (c) Those for which the license has been revoked or suspended.

(2) Provisional Order. When the License Official has been notified that a Licensee is in violation of this Title or of any related law or City Code, and the violation is not an immediate threat to the public's health, safety, or welfare, or is not otherwise so egregious as to warrant immediate intervention, the License Official shall issue to the affected Person a

provisional order to comply.

(a) The Provisional Order shall be in writing and shall apprise the Person affected of the specific violations.

In the absence of the Person affected or their agent or employee, a copy of the notice shall be affixed to some structure on the premise. The deposit of the notice in the United States mail, to the name and address provided on the business license application, shall constitute service thereof.

(b) The Provisional Order shall require compliance within five (5) business days of receipt of the mailing of the order to the affected Person.

(c) Delivery of a mailing is assumed to be within three business days.

(d) If before the expiration of the five (5) day period for compliance the Licensee requests, in writing, a hearing concerning the Provisional Order, the License Official shall order and conduct a hearing within five (5) business days of the request. Notice of the hearing shall be given in the manner prescribed herein. The applicant may be represented by counsel at the hearing and may produce any evidence relevant to the question. Within four (4) business days of the conclusion of the hearing, the License Official shall make findings, enter a final order, and mail the final order to the affected Person.

(3) Hearing Regarding License Status. At the time the License Official prepares the provisional order, the License Official is also to prepare a notice to the Licensee regarding a hearing to determine what, if any, action will be taken regarding the Licensee's business license. Notice shall set forth the specific violations to be addressed at the hearing and set forth the date, time, and location of the hearing. The notice shall either be served with the provisional order or separately in the same manner as the provisional order. The hearing shall be set no sooner than five (5) business days from the date of receipt of the notice. The applicant may be represented by counsel at the hearing and may produce any evidence relevant to the violations. Within four (4) business days of the conclusion of the hearing, the License Official shall make findings, enter a final order, and mail the final order to the Licensee.

(4) Authority of License Official. In accordance with the provisions of this Chapter, upon written request or on the Official's own motion, the License Official shall have the authority to extend the time for compliance or grant a new hearing date or change, modify, or rescind any recommendation or order. The License Official shall also have the authority to suspend or revoke a license, or place a license on

probation, or similar action, upon making and declaring a final order in reference thereto.

(5) Final Order. Upon a final order revoking or suspending a license or determining that a license is necessary for an entity operating without a license, the entity shall immediately cease all business at all places where the entity is operating and found to be in violation. This is not intended to prohibit reasonable, immediate and necessary actions to protect the life of an individual. No refund of any portion of the license fee shall be made to the Licensee if the license has been revoked or suspended.

(6) 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.

(7) Liability of Violator. The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt to the City. The City Attorney, at the direction of the City Manager, may institute a civil action in the name of the City to recover any unpaid fee. No civil judgment or any act by the City Attorney or any other agent of the City shall be a bar to prevent a criminal prosecution for each and every violation of this Chapter. In addition, the City Attorney may pursue other remedies legally allowable for enforcement of this Chapter.

*History: 01/99; 10/10*

#### **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 January 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) Any Person aggrieved by the decision of the License Official's final order, shall have the right to appeal to the City Manager by filing a written appeal with the License Official within ten (10) days following the effective date of the action or decision complained of. A time for hearing shall be fixed and not less than five (5) days notice thereof shall be given to the appellant. Following the hearing the City Manager shall make and enter findings of fact and an order, and that decision shall be final and conclusive. A copy the findings of fact, order, and decision shall be mailed to the appellant to the name and address provided in the written appeal.

(4) Appeals of an order of the City Manager after a hearing on a summary action, or after a hearing on appeal from action of the License Official, may be filed in Davis County District Court.

*History: 01/99, 3/05, 2/07, 10/10*

#### **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 90<sup>th</sup> day from the date the temporary interior business license was issued.

*History: 01/99*

**15-1-11 Business License Fees.** The total fee required each year for each type of business consists of the base fee plus the applicable business category 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 applicable business category 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, 10/10*

#### **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;
  - (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;
  - (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 criminal background checks or BCI or City issued ID 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 Non-compliance 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 Non-compliance 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. Home Based Businesses

15-2-1	Purpose and Intent
15-2-2	Home Business Permit Required
15-2-3	Issuing Authority
15-2-4	Procedure
15-2-5	Prerequisites for all Home Businesses
15-2-6	Home Office
15-2-7	Home Occupation
15-2-8	Non-compliance
15-2-9	Business License Required

**15-2-1 Purpose and Intent.** The purpose and intent of this chapter is to encourage the majority of business activities to be conducted in appropriate commercial zones. Business activities may be conducted within a residence on a limited basis if such activities comply with standards of this section. All home occupations shall be secondary and incidental to the residential use. The use should be conducted so that neighbors, under normal conditions, would not be aware of its existence. Home occupations are a temporary privilege which can be revoked if the permit and license requirements are not followed, or disruption of the residential neighborhood occurs.

**15-2-2 Home Business Permit Required.** To assure compliance with provisions of this Title and to protect the character of residential neighborhoods in the City of Clinton, a Home Business Permit shall be obtained from the Community Development Department before a business is established as an accessory use in a residence.

**15-2-3 Issuing Authority.** The Business License Administrator is responsible for the administration of the provisions of this Ordinance and the issuance of Home Business Permits and Licenses.

### 15-2-4 Procedure.

(1) Application for a Home Business shall be made with the Clinton City Community Development Department on forms provided by the City and accompanied with required information and appropriate fees as set by the City Council annually and published in the Clinton City Consolidated Fee Schedule.

(2) All applications shall be accompanied with current copies of licenses issued by the State, County; handyman or lawn care agreements; or, any other information deemed applicable to the type of business to be operated.

(3) The issuing authority may, upon application, issue a Home Business Permit which shall state the home business, either Home Office or Home Occupation permitted, the requirement for compliance with this ordinance, and any time limitations imposed thereon.

The permit shall not be issued unless the issuing authority is satisfied that the applicant will meet all of the prerequisites and conditions listed below and that the applicant has agreed in writing to comply with all said prerequisites and conditions.

(4) Denial of an applicants permit shall be given in writing and is to outline the reasons for denial. Letters of Denial shall be sent out within ten (10) business days of an applicant submitting a complete application.

(5) Applicants may appeal the Issuing Authorities actions as outlined in Chapter 4 of this Title.

### 15-2-5 Prerequisites for all Home Businesses.

The following prerequisites shall be met by all Home Businesses:

(1) The proposed business is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community;

(2) In order to minimize traffic and off-street parking, and to avoid health and sanitation risks from the disposal of medical wastes, medical, dental, and other health professional offices are specifically excluded as a home business;

(3) The proposed business will not under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons and not injurious to property and improvements in the community, but will be compatible with and complimentary to the existing surrounding uses, building and structures when considering traffic generation, parking, building design, location, landscaping, and signs;

(4) The proposed business will comply with the regulations and conditions specified in this ordinance for such use;

(5) Non-owner residents of a residence shall provide written approval of the property owner for the non-owner to be able to operate a home business, the letter shall describe the business and property owner shall acknowledge that they understand their possibility of liability for the business being operated on the premises;

(6) The Home Business shall meet all requirements of the City, County and State for operation of the

business to include but not be limited to:

- (a) Division of Occupational and Professional Licensing;
  - (b) County Health Department;
  - (c) Department of Human Services; or,
  - (d) Utah Department of Agricultural and Food
- (7) Regulation of vehicular traffic:
- (a) The proposed business shall not generate vehicular traffic not commonly associated with the zone in which it is located;
  - (b) A proposed business shall not be permitted that requires receipt or delivery of merchandise, goods, or equipment, by other than a passenger motor vehicle; or, by parcel or letter carrier mail service using vehicles typically employed in residential deliveries. No deliveries by semi-tractor/trailer truck are permitted; and
  - (c) Vehicle traffic, customers, deliveries, or other traffic associated shall not occur between the hours of 10:01 p.m. and 5:59 a.m.
- (8) Regulation of structures on the lot:
- (a) The proposed business shall not alter the residential character of the premises;
  - (b) The Home Business shall not occupy any area within the garage, unless the garage still functions for parking, and as long as two parking spaces meeting the requirements for residential use outlined in Title 28 Chapter 4 are still available;
  - (c) The proposed business shall not carry on activities outside of the residence or other enclosed space not normally associated with residential use, except outside private swimming pools or tennis courts may be used for instruction and play areas provided for daycare/pre-schools. All outside home occupation activities shall be within fenced yard spaces; and,
  - (d) Inventory and supplies for the proposed business shall not occupy more than 50% of the total permitted area described in this Chapter.
- (9) Restrictions upon use:
- (a) The proposed business shall not unreasonably disturb the peace and quiet, including radio and television reception, of the neighborhood. The business shall not be associated with chemical or biological hazards, dust, odors, noise, light, vibration, drainage, electrostatic discharge or other infringement upon other properties; and,

(b) The proposed business shall not create a hazard by using flammable, explosive, or other dangerous materials or by keeping or raising animals which are capable of inflicting harm or discomfort or endangering the health and safety of any person or property.

(c) Businesses dealing in sales, production of or trade of a "Tobacco Product" as defined by Utah State Code Sections 76-10-101, 59-14-102 & 76-10-104.1 shall be excluded from operating in a residential use.

(10) No sign or advertising shall be displayed on the premises except as permitted by section § 24-4-1(9) of the Clinton City Code.

(11) No display of any kind shall be visible from the exterior of the premises.

(12) The Home Business shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses.

(13) All Home Business Permits shall be valid for one (1) year, and will be considered renewed annually upon renewal of a Clinton City Business License as established in this Code provided there have been no reported violations, complaints, or detrimental characteristics which may, in the opinion of the issuing authority, require termination of said home business.

(14) Handicapped persons can obtain a waiver of one (1) or more of these conditions and conditions established in § 15-2-6 and § 15-2-7 below through the issuing authority to allow such persons to become self-sufficient.

*History 10/13*

**15-2-6 Home Office.**

(1) A Home Business which meets the standards listed in § 15-2-5 above as well as the following shall be defined as a Home Office. Permitted Home Offices include, but are not necessarily limited to, the following:

- (a) artists, authors, architectural services, advertising
- (b) consulting services
- (c) desktop publishing
- (d) data processing, computer programming, and service
- (e) janitorial services
- (f) insurance sales or broker, interior design

- (g) mail order
- (h) garden produce
- (i) real estate sales, broker, or appraiser
- (j) sales representative
- (k) preparation of products to be sold away from the home
- (l) contractors, provided there is no outside storage of equipment
- (2) The conditions outlined in § 15-2-5 above are amended or added to as follows for a Home Office.
  - (a) The Home Office does not require that clients or the public come into the premises.
  - (b) No exterior sign or evidence of the business being operated will be present.
  - (c) The Home Office shall be conducted wholly within the structure on the premises and shall not exceed twenty (20) percent of the total finished floor area of said structures.
  - (d) The Home Office shall not carry on activities outside of the residence not normally associated with a residential use.
  - (e) Vehicles associated with a Home Office shall be the equivalent of those normally associated with a residence.

#### **15-2-7 Home Occupation.**

- (1) A Home Business which meets the standards in § 15-2-5 above as well as the following shall be defined as a Home Occupation. Permitted Home Occupations include, but are not necessarily limited to, the following:
  - (a) Uses outlined in § 15-2-6 above where the clients are brought into the business;
  - (b) barber and beauty shops;
  - (c) consulting services, craft sales;
  - (d) dance studio, aerobic exercise, music lessons, tutoring;
  - (e) direct sales distribution;
  - (f) family daycare, family group daycare, and preschools; and,
  - (g) promotional meetings for the purpose of selling merchandise, taking orders, or training shall not be held more than once per month.
- (2) In addition to the conditions outlined in § 15-2-5 above the following conditions apply to a Home

#### Occupation.

- (a) The Home Occupation may include the sale of commodities; However, it is the intent that it be limited to items produced on the premises, or items that are incidental to the service provided, i.e. a beautician who also sells hair care products to her clientele; Other retail sales of products are not allowed at the home;
- (b) There shall be complete conformity with the Clinton City Code, fire, building, plumbing, electrical, and health codes and to all applicable state and city laws and ordinances;
- (c) Hours of operation shall be stated on the application however business shall not be conducted between the hours of 10:01 p.m. and 5:59 a.m. The issuing authority may further limit the hours of operation if it is determined that the impact of the business will have an adverse affect on the neighborhood;
- (d) The number of customers coming to a residence unit may range up to two (2) per hour, provided sufficient off-street parking is provided;
- (e) One (1) larger commercial vehicle may be used, provided it is parked on hard surface, private property and adequately screened from view;
- (f) Only resident family members of the applicant shall be regularly engaged in the business on-site. All other employees of the business may work on-site no more than a combined total of sixteen (16) man hours in a one (1) week period provided sufficient, city approved, on-site hard surface parking is provided;
- (g) Clients and other individuals visiting the Home Occupation shall not be allowed in unfinished portions of the house;
- (h) The Home Occupation shall be conducted wholly within the structure(s) on the premises and shall not exceed forty-nine (49) percent of the total floor area of said structure(s);
- (i) Home Occupations that are classified agricultural by the Business License Administrator and meet the following minimum criteria are not considered a violation of § (h) above:
  - (i) Business does not fall under the exception contained in §15-1-10(2);
  - (ii) Business is oriented toward the raising and marketing of vegetation and/or animals and not the sale of machinery, equipment or similar items;
  - (iii) Property shall be located in the A-1 Zone;

- (iv) Property shall be a minimum of one acre in size;
- (v) All requirements of the Zoning Ordinance concerning “Special Provisions Relating to the Keeping of Animals and Fowl” shall apply;
- (vi) No more than 20% of the total finished floor area of the home may be used in conjunction with the business;
- (vii) All accessory buildings associated with the business shall meet the requirements of the Zoning Ordinance concerning, “Garage, Accessory Building – Shed – Single Family Dwelling;” with the additional requirement that all accessory parking areas be hard-surfaced and approved by the city. In addition, driveways leading to accessory garages associated with the business are hard surfaced from the street to the structure.
- (vii) Animal waste shall be removed, stored, or otherwise disposed of, in such a manner, so that no noticeable odor is discernable by the average person at any point along the property line where the business is located.
- (viii) Agriculture Home Occupations involved in the sale or resale of animals shall provide a copy of the Dealer’s License issued by the Utah Department of Agriculture and Food; and,
- (ix) Agriculture Home Occupations involved in the breeding and sale of animals shall provide a copy of the Dealer’s License issued by the Utah Department of Agriculture and Food and a sales tax ID number issued by the Utah State Tax Commission.
- (j) The Clinton City Fire Marshal shall inspect the structures prior to commencing operation of the business and as deemed necessary by the Fire Marshal after the initial inspection; and,
- (k) A Clinton City Building Inspector shall conduct an inspection of the structures, for compliance with the applicable codes, prior to commencing operation of the business; if the Inspector identifies any deficiencies the applicant shall take out a building permit and correct the deficiencies prior to the start of business.
- (l) Home Occupations are allowed one (1) sign per residence, as indicated within § 24-4-1 (9).
- (3) The following requirements of the State are applicable to Family Daycare Centers and Family Group Daycare Centers or as set forth in Utah Admin Code R430-90, Licensed Family Child Care as amended by this Title.
- (4) Special Requirements for Daycare and Family

Daycare Centers: in addition to § 15-2-7(3) above, prior to approval of a Home Occupation Permit, the following conditions shall be met, in addition to the requirements of section § 15-2-5 and § 15-2-7(2) and (3) above. Where City requirements are more restrictive than the State the City requirements shall be followed.

- (a) A copy of the license issued by the Utah State Department of Health, Bureau of Licensing shall be provided to the Issuing Authority before the business license is issued;
- (b) A copy of all documentation certifying that all Utah State Department of Health, Bureau of Licensing requirements have been met shall be provided to the Issuing Authority before the business license is issued;
- (c) For Centers caring for up to eight (8) children the occupant owner shall be the caregiver; For Centers caring for more than eight (8) children and up to and including twelve (12) children the occupant owner shall be the primary caregiver and documentation shall be provided to indicate who the additional caregiver will be; Any changes to whom the caregivers are in the business shall be documented with the Issuing Authority;
- (d) Children/Students shall be supervised by the individuals outlined in (c) above at all times;
- (e) Children shall not be allowed in areas of a house with unfinished construction;
- (f) State requirements shall be met; and,
- (g) If exempt from State Licensure, a letter from the Utah State Department of Health, Bureau of Child Care Licensing must be submitted prior to obtaining a business license.
- (h) Exterior play areas shall be fenced. The fence shall be a minimum of four (4) feet in height, have a self-closing, self-latching gate, openings in the fence shall not be large enough to allow a four (4) inch sphere to pass through. Field fence or barbed wire shall not be allowed.
- (i) Daycare Centers, Family that are performing “Relative Care” as defined by the State are required to obtain a business license, however the Business License Administrator shall classify it a special license and only charge for the required one time building inspection and fire inspection fee which will be charged on an annual basis.
- (5) In addition to § 15-2-5 and § 15-2-7 (2) above the following shall apply to the operation of a preschool:

(a) No more than eight (8) students including the children of the provider below the age of six (6);

(b) Exterior play areas shall be fenced. If utilized as part of the preschool, any exterior play area shall meet the requirements of § 15-2-7 (4) (h); and,

(c) No recitals, shows, displays, or other activity intended to entertain, educate or otherwise bring in non-students, other than family members of students, shall be held at the residence.

(6) In addition to § 15-2-5 and § 15-2-7 (2) above the following shall apply to the operation of a business in which instructional services, such as but not limited to, musical instrument, singing, dance, tutoring, painting, or similar teachings are given:

(a) No more than eight (8) students including their children, parents, partners, or otherwise non-students shall be at the residence at any one time;

(b) Lessons shall be given within the enclosed portion of the residence;

(c) Lessons shall not include the use of power tools, flammables, toxics or other noise or odor producing materials; and,

(d) No recitals, shows, displays, or other activity intended to entertain, educate or otherwise bring in

non-students shall be held at the residence.

*History: 04/12, 05/15*

**15-2-8 Non-compliance.**

(1) Any Home Occupation Permit shall be revoked by the Business License Administrator upon violation of any requirements of this Chapter, or where issued as a conditional use under the previous ordinance upon failure to comply with any of the conditions or limitations of the permit, unless such violation is corrected within three (3) business days of receipt of written notice thereof. A permit may be revoked for repeated violations of the requirements of this Chapter, notwithstanding compliance to the violation notice.

(2) Home Occupations established as a Conditional Use under the previous ordinance. Home Businesses operating under a Conditional Use permit shall comply with the requirements of this ordinance upon renewal of their Clinton City Business License following the enactment of this ordinance.

**15-2-9 Business License Required.** A Home Occupation Permit is not a business license, and the granting of said permit shall not relieve the permittee of any other license requirement of the City or of any other public agency.

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**Chapter 3. Alcoholic Beverage Licenses**

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**15-3-1 Definitions.** Words found in this Chapter shall have the meanings found in the Utah Alcoholic Beverage Control Act and the following meanings.

**“Act”** means the Alcoholic Beverage Control Act of the state of Utah, Utah Code Annotated title 32A, or its successor provisions.

**“Club” and “Private Club”** means any nonprofit corporation operating as a social club, recreational, fraternal, or athletic association, or kindred association organized primarily for the benefit of its stockholders or members.

**“Disorderly Conduct”** means any individual who:

- (1) Refuses to comply with the lawful order of the police to move from a public place, or knowingly creates a hazardous or physically offensive condition, by any act which serves no legitimate purpose; or,
- (2) Intends to cause public inconvenience, annoyance, or alarm, or recklessly creates a risk thereof, he:
  - (a) Engages in fighting or in violent, tumultuous, or threatening behavior;
  - (b) Makes unreasonable noises in a public place; makes unreasonable noises in a private place which can be heard in a public place; or,
  - (c) Obstructs vehicular or pedestrian traffic.

**“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 premises under this Title.

**“Local Authority”** means the Clinton City legislative body.

**“Nuisance”** means any room, house, building, vehicle, structure or place where:

(1) Alcoholic beverages are manufactured, kept, stored, sold, bartered, given away or offered or exposed for sale in violation of the Act or any City Code or where individuals resort for drinking alcoholic beverages contrary to the Act or any City Codes;

(2) Intoxicated individuals are permitted to loiter about in a way as to annoy, injure or endanger the comfort, repose, health or safety of another individual or individuals, or which loitering in any way renders another individual or individuals insecure in life or use of property;

(3) Disorderly conduct is permitted and carried on;

(4) Individuals under twenty-one (21) years of age are permitted to purchase or drink any alcoholic beverage or are employed in violation of this chapter; or

(5) Laws or City Codes are violated by the Licensee or the Licensee's agents or patrons with the consent or knowledge of the Licensee upon premises which tend to affect the public health, peace or morals.

**“Offense”** means:

(1) A felony under a federal law or state law;

(2) A violation of a federal law, state law, or City Code concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product;

(3) A crime involving moral turpitude; or,

(4) On two (2) or more occasions within the five (5) years before the day on which a City Alcohol License is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

**“Person”** means any individual, partnership, firm, corporation, association, business trust, or other form of business enterprise, including a receiver or trustee, and the plural as well as the singular member, unless the intent to give a more limited meaning is disclosed by the context.

**“Private Club”** means any social club, recreational association, fraternal association, athletic association, or kindred association organized primarily for the benefit of its members, regulated and operated as a "club" or "private club" in accordance with the provisions of Chapter 5 of the Act, as amended, and shall be deemed to be a "private club" or "club" for the provisions of this chapter and shall be subject to the regulations and licensing provisions contained herein. A private club is subject to business licensing under § 15-1-2 of this title.

**“Public Entrances and Exits”** as used in this Chapter, shall mean access points that are required to remain unlocked during business hours that are to be used by the general public, and does not include emergency or other exits or access points.

**“Public Place”** means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

**“Retailer”** means any Person engaged in the sale or distribution of alcoholic beverages to the consumer.

**“Significant Individual”** if the Person is a partnership, corporation, limited liability company, or other held in common means:

(1) A partner;

(2) A managing agent;

(3) A manager;

(4) An officer;

(5) A director;

(6) A stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or,

(7) A member who owns at least 20% of the limited liability company.

**“Transaction”** as used in the Chapter, means the particular portion of the exchange of legal tender for alcoholic beverages wherein the age of the purchaser is determined and the amount of the purchase is entered manually or mechanically on the Licensee's standard record keeping device. Acts incidental to the transaction shall not be considered part of the transaction or beer sales transaction.

**“Wholesaler”** means any Person, other than a licensed manufacturer, engaged in the importation for sale, or in the sale of beer, malt liquor, or malted beverages, in wholesale or quantities to retailers.

**15-3-2 License Required – General.** In addition to the requirements of § 15-1-2 every business seeking an Alcohol License in the City shall comply with following:

(1) Before a Person may store, sell, offer for sale, furnish or allow the consumption of an alcoholic product on its premises, within the corporate limits of the City, the Person shall:



(a) Obtain an appropriate package agency, license, or permit from the Commission in accordance with the Act.

(b) Obtain an appropriate Clinton City Alcohol License as provided in this Chapter:

(i) Restaurant Alcohol License, full service as defined by the Act;

(ii) Restaurant Alcohol License, limited service as defined by the Act;

(iii) Club Alcohol License;

(iv) On-Premise Beer License;

(v) Off-Premise Beer License; or,

(vi) Package Agency License.

(2) Obtain a Business License for any business operating within the City, obtaining an Alcohol License does not exempt a business from needing to have a Business License.

(3) Obtain a separate Alcohol License for each place of sale or consumption. All Licensees shall comply with the Act and the regulations of the Commission and with the City Codes and every Alcohol License shall recite that it is granted subject to revocation as provided in this Chapter.

### **15-3-3 Alcohol License Qualifications.**

(1) The License Official may issue an Alcohol License to Persons meeting the requirements of this Chapter.

(2) The License Official may only grant an Alcohol License to Persons who qualify under the requirements of the Act.

(3) The License Official may immediately suspend or revoke an Alcohol License if a Person or Significant Individual associated with the Person:

(a) After the day on which the Licensee is found to have been convicted of an Offense before the Alcohol License is issued; or,

(b) On or after the day on which the Alcohol License is issued:

(i) Is convicted of an Offense; or,

(ii) Is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and,

(iii) Was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five (5) years before the day on

which the Person or Significant Individual is convicted of the crime in § (ii) above.

(4) The License Official may take emergency action by immediately suspending the alcohol operation of a Licensee for the period during which a criminal matter is being adjudicated if a Person or Significant Individual:

(a) Is arrested on a charge for an Offense; or,

(b) Is arrested on a charge for the offense of driving under the influence of alcohol, drugs or the combined influence of alcohol and drugs; and,

(c) Was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five (5) years before the day on which the Person or Significant Individual is convicted of the crime in § (b) above.

(5) The License Official may not issue an Alcohol License to a Person who has had an Alcohol License revoked within the last three (3) years or who has a Significant Individual that was:

(a) A partner or managing agent of a partnership that had an Alcohol License revoked in the last three (3) years; or,

(b) A Significant Individual of any Person that had an Alcohol License revoked within the last three (3) years.

(6) All alcohol will be acquired, sold and stored in accordance with the Act.

(7) If any Person or entity to which a license has been issued under this Chapter no longer possesses the qualifications required by this Chapter for obtaining that license, the City may suspend or revoke that license.

(8) A minor may not be issued an Alcohol License.

(9) Holders of a Clinton City Alcohol License shall adhere to the following hours of operation unless the Act outlines more restrictive hours.

(a) In restaurants with full service liquor licenses, liquor, wine, flavored malt beverages, and heavy beer may be served from 11:30 a.m. to midnight.

(b) In restaurants with limited service liquor licenses, wine, flavored malt beverages, and heavy beer may be served from 11:30 a.m. to midnight.

(c) In restaurants with full or limited service liquor licenses or restaurants with a beer only license, beer may be served from 11:30 a.m. to 1:00 a.m.

(d) Beer, for off premise consumption, may not be sold, offered for sale or otherwise furnished on any day between the hours of after 1:00 a.m. and 7:00 a.m.

(e) Beer establishments including, taverns, lounges, cabarets, nightclubs, cafes, bowling alleys, golf courses, etc., the hours for beer sales in these establishments are 10:00 a.m. to 1:00 a.m. Beer may be purchased without ordering food, and is sold on draft and in bottles and cans.

*History 06/12*

**15-3-4 Alcohol License Application and Renewal Requirements.**

(1) A Person seeking a license under this Chapter shall file a written application, on a form provided by the City, with the City in the name of an officer or director of a Person on a form prescribed by the licensing department and with all documentation required by the Licensing Official to include, but not be limited to the following:

- (a) Non-refundable fees;
- (b) A copy of the Person's current business license;
- (c) Evidence of proximity to any community locations, as established in § 15-3-13;
- (d) A floor plan, and boundary map where applicable, of the premises of the retail license, including any;
  - (i) Consumption area; and,
  - (ii) Area where the Person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;
- (e) Evidence that the Licensee has met the insurance requirements in an amount established by the Commission;
- (f) A signed consent form stating that the Licensee will permit any Authorized Officer to have unrestricted rights to enter the premises of the Licensee; and,
- (g) If the Person is an entity, proper verification evidencing that the individual who signs the application is an officer or director and that they are authorized to represent and sign on behalf of the Person.

(2) Licensing fees are as set forth in the Consolidated Fee Schedule and are due upon application and are non-refundable.

(3) An alcohol license expires each year at 12:00 midnight on June 30, or earlier if a license issued by the State expires on an earlier date.

(4) To renew a Person's alcohol license, a Licensee shall, by no later than the date specified in § (3) above submit:

- (a) A completed renewal application to and on a form prescribed by the Licensing Official;
  - (b) A non-refundable renewal fee;
  - (c) A copy of the current Business License; and,
  - (d) A copy of the State issued license.
- (5) Failure to meet the renewal requirements results in an automatic forfeiture of the Alcohol License effective on the date the existing Alcohol License expires.

(6) A quarterly investigation of the business establishment will be conducted by a Police Officer, to insure compliance, and a copy of finding will be furnished to the License Official and the Chief of Police.

**15-3-5 Investigation by Chief of Police.** Every applicant for restaurant alcohol license or an on-premise beer license, together with information as required to be attached thereto, shall be referred to the Chief of Police for inspection and report. The Chief of Police shall, within ten (10) days after receiving application, report in writing to the License Official the general reputation of the applicant, the character of the premises, and of the individuals who habitually frequent the same; the nature and kind of business conducted at the premises; whether intoxicating liquors are or have been served or permitted to be drunk in the premises; whether the premises is or has been conducted in a lawful, quiet, and orderly manner; the nature and kind of entertainment, if any, at the premises; whether gambling is or has been permitted, or gambling devices are or have been displayed upon the premises, or by the applicant at any other location; whether there is any ground to believe any statement made in the application is untrue. The Chief of Police shall add further information as he believes to be pertinent. The Chief of Police shall add thereto in writing his recommendation as to the granting or denying application.

**15-3-6 Investigation by Health Department.**  
Reserved

**15-3-7 Investigation by Fire Chief.** The application shall also be referred immediately to the Fire Chief for inspection and report. Within ten (10) days, he shall report in writing to the License Official whether the proposed licensed premises complies with all applicable laws, City Codes, and regulations

relating to safety in the event of fire or panic, and whether it is reasonably safe for use as a licensed premises of the type of license applied for.

**15-3-8 Issuance of License - Renewal.** Upon receipt of the reports from the Chief of Police, the Fire Chief, and, if referral is made, the Health Department, and upon review of those reports and a determination by the License Official that the applicant has complied with all applicable laws, City Codes and regulations, the License Official may issue a license to the applicant for the retail sale of beer and/or liquor upon the licensed premises. In the instance of a renewal application, the License Official, upon receiving the aforementioned reports and determining that the applicant has complied with all applicable requirements, may issue a renewal license to the applicant. Under this Section, a renewal application will only be reviewed if it is for the same applicant and location as the previous license and for the year immediately following a licensed year. Otherwise, an initial application is required.

**15-3-9 Display of License.** Every license issued hereunder shall be displayed in accordance with § 15-1-4.

**15-3-10 Transfer of License.** Alcohol Licenses issued under this Chapter shall not be transferable.

**15-3-11 Discretion of License Official Licenses Revocable.**

(1) The License Official, may, at his discretion, when in the interest of public health, safety, and welfare, refuse to grant any application for a license. No license shall be issued if the applicant does not possess all the qualifications required by state law. Licenses are revocable pursuant to § 5-1-8.

(2) Every Authorized Officer is authorized and empowered to inspect all licensed premises for compliance with state law and the City Code, reporting any violations to the License Official.

**15-3-12 Appeal to Decision of License Official.** Any Person aggrieved by the decision of the License Official may appeal the decision to the City Manager as established in § 15-1-9 (3) of this Title.

**15-3-13 Proximity to Community Locations.**

(1) Except as otherwise provided in this Chapter the premises of a state store, package agency, or Licensee (an outlet) may not be located:

(a) Within six hundred (600) feet of any public or private school, church, public library, public playground, or park as measured from the nearest

entrance of the “outlet” by following the shortest route of either ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(b) Within two hundred feet (200') of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed “outlet” to the nearest property boundary of the above named.

(2) With respect to the location of an “outlet,” other than a state store, the Council may authorize a variance to reduce the proximity requirement of § (1) above if:

(a) An application for a variance has been presented to the State Alcoholic Beverage Control Commission;

(b) The variance reduces the proximity requirement of § (1)(b) above and the location at issue is:

(i) A public library; or,

(ii) A public park.

(c) A public hearing is held during the Council meeting where the variance is being presented, proposed, and decided.

(d) The Council finds, after a full investigation by the City Planner and License Official that compliance with distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a license.

(e) The Council finds, a variance from the distance requirements to relieve the difficulties or hardships may be accomplished without substantial detriment to the public good.

(3) Nothing in this section prevents the Council from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an “outlet.”

(4) If a variance is recommended to the State Alcoholic Beverage Control Commission the Council may recommend additional restrictions are imposed upon a Licensee.

**15-3-14 Restaurant Alcohol Licenses.**

(1) Any Person applying to the City for a Restaurant Alcohol License shall meet all applicable requirements of the Act prior to application.

(2) Before any full service restaurant may sell or allow the consumption of beer or liquor on its

premises, it shall first obtain a Restaurant Alcohol License, full service, from the City.

(3) Before any limited service restaurant may sell or allow the consumption of alcohol, as allowed by Utah State Code, on its premises, it shall first obtain a Restaurant Alcohol License, limited service, from the City.

(4) If after obtaining a limited service Restaurant Alcohol License, a restaurant desires to change to a full service restaurant it shall reapply through the process outlined in this Title.

(5) The City may issue either Restaurant Liquor License at places and in numbers it considers proper for the storage, sale, and consumption of alcohol on premises operated as public restaurants.

#### **15-3-15 Club Alcohol License.**

(1) Any Person applying to the City for a Club Alcohol License shall meet all applicable requirements of the Act prior to application.

(2) A Club Alcohol License issued by the City only allows the Person who holds the License to operate under the provisions of the License issued by the State.

(3) If after obtaining a Club Alcohol License for a specific type of Club as outlined in the Act the Person holding a City License desires to change the type of Club the Person shall reapply through the process outlined in this Title.

(4) The City may issue a Club Alcohol License at places and in numbers it considers proper for the storage, sale, and consumption of alcohol on premises operated as a club.

(5) No Licensee holding a private club license shall be located closer than six hundred feet (600') to an existing private club or Licensee holding an on-premise beer license. The six hundred feet (600') shall be measured in a straight line between the nearest property lines of the subject properties.

(6) A Licensee holding a club alcohol license shall meet the requirements of § 15-3-3.

#### **15-3-16 Single Event License.**

(1) The License Official may issue a single event permit to a Person as established in the Act.

(2) Persons qualifying for the following permits from the Commission may qualify for a Single Event Permit.

(a) Event Permit; or

(b) Special Use Permits.

(3) The permit period shall not exceed seventy-two (72) hours.

(4) The six hundred feet (600') and two hundred feet (200') proximity limitations to educational, religious, and recreational facilities do not apply to single event permits. Nothing in this Section, however, prevents the License Official from considering the proximity of any educational, religious, or recreational facility, or any other relevant factor in deciding whether to grant a single event permit.

(5) The City may not issue more than two (2) single event permits in any one (1) calendar year to the same applicant as outlined in § (1) above.

(6) A Single Event Permit shall only be issued for the specific period specified in the application and not to exceed the limit established in § (3) above.

#### **15-3-17 Single Event License Qualifications - Specific.**

(1) In addition to the requirements established in § 15-3-3, the following qualifications apply to a Single Event License.

(2) In order to qualify for a single event permit, the applicant:

(a) May not be the holder of or be affiliated with the holder of any other type of package agency, Licensee or permit holder issued under this Chapter; and,

(b) Shall have been in existence as a Person for at least one (1) year prior to the date of application.

(3) Beer, Wine, Heavy Beer and flavored Malt Beverages are the only alcoholic beverages that may be served at a Single Event.

(4) Beer, Heavy Beer, and flavored Malt Beverages shall only be served in the original containers.

(5) Wine shall be served as established in the Act.

(6) Hours of operation of the event shall be specified in the application. Hours of serving alcohol shall be as established in the Act.

#### **15-3-18 Single Event License Requirements.**

(1) A Person seeking a single event permit, under this Chapter, shall file a written application with the City, in a form prescribed by the licensing department.

(2) Single Events must also comply with the requirements of Titles 5, 10, 19 and other applicable sections of this City Code.

(3) Hours of operation for the event shall be specified in the application. Hours of serving alcohol shall be as established in the Act.

**15-3-19 Beer Retailer License.**

(1) Clinton City License Official may issue the following Beer Retailer Licenses:

- (a) Off-Premise Beer License;
  - (b) On-Premise Beer License; and,
  - (c) An on-premise beer license qualifying as a seasonal on-premise beer retailer license for a tavern in accordance with the Act.
- (2) A seasonal on-premise beer license shall only be issued for the specific period specified in the application.
- (3) All beer licenses shall be issued subject to the requirements of the Act.

**15-3-20 Beer Retailer License Qualifications - Specific.**

- (1) In addition to the requirements established in § 15-3-3, the following qualifications apply to a Single Event License.
- (2) Except as outlined in this Title, on-premise beer retailers may sell beer in open containers, in any size not exceeding two (2) liters, and on draft.
- (3) Liquor may not be stored or sold on the premises except as allowed by the Act.

**15-3-21 Off-Premise Beer License.** An off-premise beer license may be issued to allow the Licensee to sell beer on the licensed premises in original containers for consumption off the premises only, in accordance with the Act and City Codes.

- (1) Beer may not be sold, provided, or possessed for off-premise consumption in containers larger than two (2) liters.
- (2) All employees involved in the transaction of off-premise retail beer sales will be required to possess and display a "Beer Handler's Permit" while on duty.
- (3) Those businesses possessing this license that are open twenty-four (24) hours a day shall have all public entrances and exits and the transaction or cashier area monitored by video camera and recorder from the hours of 11:00 p.m. to 5:00 a.m. Cameras shall be programmed in a manner that the date and time shall appear on the video tape or film when being viewed through a monitor. The recorded tapes will be maintained by the business for a period of not less than thirty (30) days from the day the recording

ends. Tapes will be made available to the City for review and auditing purposes upon twenty-four (24) hours notice, absent exigent circumstances.

(4) Any Licensee may submit plans or proposals to the Chief of Police or designee to verify compliance with the intent of this Section. The objective of the review is to verify that people may be reasonably identifiable through the camera based on location, direction, and distance between the camera and monitored area. Any approval obtained through a review is neither a guarantee nor warranty of the effectiveness of the plan or approval but is only to determine whether the Licensee's plan or proposal satisfies the intent hereof. The Chief of Police may require that cameras be relocated upon inspection of an established system and the efficiency of that system.

**15-3-22 On-Premise Beer License.** A beer retailer on-premise beer license may be issued to qualifying businesses.

(1) An on-premise beer license may be issued to an applicant engaged in good faith in the business of dispensing and selling beer at retail, in the original containers or in draft, for consumption on the premises, over a bar in these establishments:

- (a) A tavern;
- (b) Bar;
- (c) Cabaret;
- (d) Pub;
- (e) Cocktail lounge; or,
- (f) Similar establishments.

(2) Bowling Alley. May be issued a license for the entire portion of the bowling alley used in the sport of bowling and recreation.

(3) Golf Course. May be issued a license for the area of the golf course used in the sport of golfing, including the clubhouse, fairways, and greens.

- (a) Alcohol to be consumed on the golf course shall be purchased at the golf course.
- (b) An individual may not have an open container of alcoholic beverage within the golf course parking lot.
- (c) An individual may not operate a golf cart on or across a public way with an open container of alcoholic beverage in the golf cart.
- (4) The location of these Licensees shall be limited. No new Licensee holding an on-premise beer license shall be located closer than three hundred feet (300')

to an existing Licensee holding an on-premise beer license or club alcohol license. The three hundred feet (300') shall be measured in a straight line between the nearest property lines of the subject properties.

**15-3-23 State Store / Package Agency.** State Stores and Package Agencies shall only be allowed within the City, in compliance with the Act, and in compliance with the Clinton City Zoning Ordinance. These stores will comply with the distance requirements set forth in § 15-3-3. In the event a variance is required, the process outlined in § 15-3-13 will be adhered to.

**15-3-24 Qualification of Employees.**

(1) Other than as provided in § 15-3-29, any individual employed by any Licensee under this Chapter for work involving the transaction, sale, serving, or dispensing of alcoholic beverages on or about the licensed premises, whether as manager, agent, or servant shall be twenty-one (21) years of age or older, and shall be legally able to work in the United States.

(2) No one shall be employed who has been convicted of a felony within five (5) years prior to employment or who has not secured a judicial pardon and expungement of the record of any felony conviction entered prior to the five (5) year period, or who has within three (3) years prior been convicted of any violation of any law or City Code involving moral turpitude, controlled substances, or relating to alcoholic beverages, driving charges involving alcohol or drugs, or of keeping a gambling or disorderly house, or who has pleaded guilty to or has forfeited bail on any of these charges.

**15-3-25 Duty to Report Change of Ownership.**

(1) If, during the term of the license year, after the license has been issued, there shall be any change in the individuals within any licensed Person or of the officers or directors of any licensed corporation, the Licensee shall report the changes in personnel to the License Official.

(2) If the change involves the individual who is the officer or director that signed the license application for the Person holding the License the Person must file an amended application with the information and signature of the officer or director representing the Person along with the document required in § 15-3-4(1)(g).

(3) Failure to report a change or submit an amended application to the License Official within thirty (30) days of the change may make all Alcohol Licenses

issued to the Person by the City subject to being revoked and notice sent to the State.

**15-3-26 Prohibited to Intoxicated Individual.** It is unlawful to sell any alcoholic beverage to any individual intoxicated or under the influence of any alcoholic beverage.

**15-3-27 Selling to Minors.** It is unlawful to sell any alcoholic beverage to any individual under the age of twenty-one (21) years and anyone doing so is strictly liable therefore, and guilty of a class "B" misdemeanor.

**15-3-28 Licensee Permitting Minor on Premises.** It is unlawful for any Licensee, agent, or employee of an on-premise beer license to permit any individual under the age of twenty-one (21) years to be in, to loiter about, or to frequent the licensed premises, except with regards to bowling alleys and golf courses where a minor is legitimately involved in recreational activities. If a minor is legitimately on the premises of a bowling alley or golf course the Licensee, agent, or employee shall not allow the minor to possess or consume any alcoholic beverages.

**15-3-29 Minor Serving Alcohol.**

(1) It is unlawful for any Licensee under this Chapter to employ or to permit any individual under the age of twenty-one (21) years to transact the sale of, serve, dispense, or handle alcoholic beverages.

(2) Exceptions.

(a) A Licensee holding a restaurant license may employ individuals eighteen (18) years of age through twenty (20) years of age to serve alcoholic beverages provided they are under the supervision of an individual at least twenty-one (21) years of age and who is on the premises;

(b) A Licensee holding an off-premise beer license may employ individuals eighteen (18) years of age through twenty (20) years of age to transact the sale of or handle beer in its sealed original containers provided they are under the supervision of an individual at least twenty-one (21) years of age and who is on the premises; or,

(c) The Licensee may also employ individuals sixteen (16) years of age through seventeen (17) years of age for the handling of beer, exclusive of transactions, in its sealed original containers provided they are under the supervision of an individual at least twenty-one (21) years of age and who is on the premises. The activity is limited to the locating, relocating, or transporting beer upon the premises.

**15-3-30 Parent or Guardian Permitting Minor on Premises.** Except as provided for in § 5-3-29 and 5-3-30, it is unlawful for any individual having charge or custody of any minor, to take the minor into, or to suffer the minor to enter, be in, loiter about, or to frequent any beer tavern or any premises for which an on-premise beer license has been issued.

**15-3-31 Minor on Premises.** It is unlawful for any individual under the age of twenty-one (21) years to enter, to be in, to loiter about, or frequent a beer tavern, or any premises for which an on-premise beer license has been issued. Minors will be allowed in the bowling alley and on golf courses for the purpose of recreation.

**15-3-32 Minor in Possession.** It is unlawful for any minor to possess, consume, or possess by consumption, an alcoholic beverage. A violation of this Section is a class "B" misdemeanor.

**15-3-33 Entering Premises Violating State and City Laws.** It is unlawful for any individual to visit, to loiter about, to frequent, or to resort to any house, building, room, or premises where any alcoholic beverages are kept, stored, sold, bartered, offered, or exposed for sale in violation of state law or City Code.

**15-3-34 Days of Sale - Closure.** The below listed are the dates of sale by license classification:

- (1) Restaurant Alcohol License – From Sunday through Saturday.
- (2) Club Alcohol License – From Sunday through Saturday.
- (3) Off-Premise Beer License – From Sunday through Saturday.
- (4) On-Premise Beer License – From Sunday through Saturday.
- (5) Single Event - From Monday through to 1:00 a.m. on Sunday.

**15-3-35 Advertising Requirements.** It is unlawful for any Person to advertise the sale of beer not in accordance with state law.

**15-3-36 Consumption on Property of an Off-Premise Beer Retailer.** It is unlawful for any Licensee holding an off-premise beer license to suffer or allow any individual to consume any alcoholic beverage upon the premises or upon the lot or parcel of property on which the licensed premises is located.

**15-3-37 Illumination of Premises.** It is unlawful for any Licensee to fail to keep all parts of the licensed

premises to which customers have any access illuminated with a minimum illumination of three foot (3') candles at all times it is occupied or open for business.

**15-3-38 Screening of Private Clubs and On-Premise Beer Retailers.** It is unlawful for any Licensee holding a club alcohol license or on-premise beer license to keep the licensed premises, or arrange any booth, stall, furniture, fixture, screens, or curtains thereon so as to impede a full view of the premises and all of the occupants therein from the main floor entrance thereof.

**15-3-39 Nuisances on Licensed Premises.** It is unlawful for any Person to commit, keep, or maintain a nuisance upon any licensed premises. It is unlawful for any Person to suffer a nuisance to be maintained upon licensed premises, owned, occupied, operated, or controlled by him/her or which may be in his charge.

**15-3-40 Beer Acquired from Brewer or Wholesaler.** It is unlawful for any Licensee to purchase or acquire or to have or possess, or to suffer to be kept upon the licensed premises, any beer except that lawfully acquired from a brewer or wholesaler licensed under the provisions of state law.

**15-3-41 On-Premise Employee.** It is unlawful for any Licensee holding an on-premise beer license to employ or to suffer to work for him upon the licensed premises, any individual who does not meet the requirements of employment.

**15-3-42 Gambling Devices in Licensed Premises.** It is unlawful for any Licensee hereunder to possess, store, or display upon the licensed premises any gambling device or tickets to be bought, kept, possessed, stored, or displayed upon the premises for any purpose whatsoever.

**15-3-43 Restrictions on Brewer, Jobber, and Wholesaler.** No brewer, jobber, or beer wholesaler shall directly or indirectly supply, give, or pay for any furniture, furnishings, or fixtures of a retailer of beer, nor shall any brewer, beer dealer, or beer wholesaler advance, furnish money, or pay for any license fee for a retailer or be financially interested, whether directly or indirectly, in the conduct or operation of the business of any retailer, or lend money or grant more than forty (40) days credit to any retailer.

**15-3-44 Premises Accessibility to License Official and Authorized Officer.** It is unlawful for any door or other means of ingress to or egress from any licensed premises to be locked or barred or barricaded in any way so as to interfere with the free

entrance to the licensed premises by the License Official or any Authorized Officer at any time while the premises are occupied or open to the public, but all doors or other means of entrance thereto, during the time the premises are occupied or open to the public, shall be left unlocked or unfastened so that the License Official or any Authorized Officer may enter the same without any hindrance or delay; provided, however, that there may be maintained upon the premises a locked storeroom for the keeping of goods and supplies used in the business. Storerooms shall, at all times, be subject to search and inspection by the License Official or any Authorized Officer upon compliance with procedural requirements. It is unlawful for any Licensee to deny the License Official or any Authorized Officer immediate access to the storeroom for search or inspection upon demand made for access. It is unlawful for any Licensee to suffer any individual, except a bona fide employee of the Licensee the License Official or any Authorized Officer to enter or remain in the storeroom.

**15-3-45 Warning of Approach of Police or License Official.** It is unlawful for any individual commonly known as a "lookout" to be stationed or maintained to give warning of the approach of any Authorized Officer to the premises. It is unlawful to maintain or operate any electrical or other device, which is used or capable of being used to give warning to individuals within any licensed premises of the approach of any Authorized Officer.

**15-3-46 Disorderly Conduct On-Premise.** It is unlawful for any Licensee to suffer or allow any disorderly conduct to be committed, or to suffer or allow any, disorderly individual to be or remain upon any licensed premises.

**15-3-47 Lewd Conduct On-Premise.** Licensees under this Chapter, whose license permits the consumption of alcoholic beverages on premises, shall not allow any conduct, by any individual, on the premises, that is proscribed by state law. Further, the Licensee shall not allow the fondling of human genitals, pubic region, buttocks, or female breasts, nor allow the ultimate sex act, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, sodomy, masturbation, excretory functions, nor allow any showing of any visual reproductions showing the same. Further, the Licensee shall not allow any individual to expose, or be dressed in a manner so as to expose to the view of others, the human genitals, pubic regions, buttocks, the female breasts, at the point immediately above the top of the areola to the bottom of the breast, the

human male genitals in a discernable turgid state, even if completely and opaquely covered, nor allow any visual reproductions showing the same.

**15-3-48 Solicitation for Immoral Purposes On-Premise.** It is unlawful for any individual to solicit any other individual upon any licensed premises for illicit sexual intercourse or other immoral purpose, or to be upon premises for the purpose of solicitation. It is unlawful for any Licensee to suffer or allow any violation of the immediately preceding prohibition upon the licensed premises.

**15-3-49 Begging Drinks On-Premise.** It is unlawful for any individual upon any public street or upon any licensed premises to beg or solicit a gift of any alcoholic beverage.

**15-3-50 Sale during License Revocation or Suspension.** It is unlawful for any Person to sell alcoholic beverage after the revocation of any license issued to him/her, or during a period of suspension of license.

**15-3-51 Licensee Responsibility.** It is unlawful for any Licensee hereunder, to fail to maintain full control of the conduct of the business upon the licensed premises, or to fail to inform himself/herself of the manner in which the business is conducted and of the activities of his agents, servants, and employees in and about the licensed premises, and by accepting a license hereunder, the Licensee unconditionally guarantees to the City that neither he nor his agents, servants, or employees will violate the terms of this Chapter upon the licensed premises, and for breach of guarantee the license may be revoked.

**15-3-52 Search of Licensed Premises.** Every Licensee, by accepting a license issued under the provisions of this Chapter, thereby irrevocably consents that any Authorized Officer, upon compliance with procedural requirements, may at any time during the effective period of the license freely enter and inspect and search the licensed premises for any alcoholic beverage or for any other goods or chattels illegally possessed or kept thereon, or for evidence of any alleged crime under investigation by an Authorized Officer, and further consents to the seizure of any alcoholic beverage, goods, chattels, or evidence, the property of the Licensee, which may be found therein upon a search.

**15-3-53 Manufacturing.** Facilities manufacturing wine, beer, heavy beer, flavored malt beverages or distilling shall operate as outlined in the Act and only in areas permitted as established in the Clinton City Zoning Ordinance.



**15-3-54 Penalty for Violation.**

(1) General Provision. A violation of this Chapter shall be a class "B" misdemeanor, unless otherwise established by state law.

(2) Enhancement for Licensees. This Subsection applies to any conviction of class "B" misdemeanors, or more serious classification of offenses, under this Chapter or similar state or county laws.

(a) It is specifically provided, that in case of a Licensee's second conviction, within a twenty-four (24) month period, the minimum penalty prescribed shall be not less than Three Hundred Dollars (\$300.00), and in case of a Licensee's third or subsequent conviction under this Chapter within a twenty-four (24) month period, the minimum penalty shall be not less than Six Hundred Dollars (\$600.00). For the purposes of this Chapter, the forfeiture of bail on a charge is deemed a prior conviction. This does not preclude the enforcement of any civil or administrative penalties applicable to the violations.

(b) A Licensee can reduce the time periods from twenty-four (24) months to twelve (12) months used to calculate second or subsequent convictions by implementing and conducting regular training for those employees involved in the transactions of alcoholic beverages. The training must be in the proper sales and handling of alcoholic beverages and must be in addition to the training set forth in this Section. The Licensee must maintain a record of the subject matter of the training, the length thereof, and

those in attendance. To qualify for the time period reduction, training sessions must occur once each six (6) months, with ninety percent (90%) attendance, and no employee missing two (2) consecutive sessions. Training sessions should last a minimum of fifty (50) minutes each.

(3) Civil Penalties for Permittees. Violations of this Chapter by a holder of a Beer Handler's Permit shall result in the following administrative sanctions in addition to any criminal penalties assessed:

(a) First violation, fourteen (14) day suspension of permit;

(b) Second violation within a twenty-four (24) month period, six (6) month suspension of permit;

(c) Third violation within a forty-eight (48) month period, one (1) year suspension of permit; and,

(d) Fourth violation within a forty-eight (48) month period, permanent revocation of permit.

(4) Any time period during which a permit is suspended shall be excluded when calculating the time period in determining the applicable enhancing civil penalty.

(5) For purposes of this Chapter, a violation can be found either as the result of a criminal conviction or as the result of an administrative hearing under the licensing provisions of this City Code.

*History 11/10; 02/12*

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#### 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	Appeal to a Decision of the License Official
15-4-6	Repealed
15-4-7	Repealed
15-4-8	Repealed
15-4-9	Repealed
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) Non-compliance 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) Non-compliance with any city, state or federal statutes or any Health Department regulations governing the applicant's proposed business or,

(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 Appeal to a Decision of the License**

**Official.** If the License 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 License Official's decision to the City Manager in accordance with § 15-1-9 (3) of the City Code.

*History: 01/99, 10/10*

**15-4-6 Repealed.**

**15-4-7 Repealed.**

**15-4-8 Repealed.**

**15-4-9 Repealed.**

**15-4-10 Licensing After Revocation.** A person whose license has been revoked may not be issued a license for a period of twelve (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*

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**Chapter 5. Base Fees and Bonding**

15-5-1 Definitions

15-5-2 Bonds Required for Certain Businesses

**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*

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## 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 non-sales 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 Non-compliance 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.

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

*History: 01/99, 10/10*

**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.

(2) Each tavern dancer shall obtain a business license and pay the license fee 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, 10/10*

**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 (3) years, or a misdemeanor within the last two (2) 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 procure, 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; or,
- (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; or,

(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 ninety (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 (2) or more tavern dancers, working under the same booking agent within any twelve (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*

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**Chapter 7. Restaurants**

- 15-7-1 Definitions
- 15-7-2 Unlawful to Employ Help Under Eighteen (18) Years of Age After One (1) A.M.
- 15-7-3 Minors Prohibited on Premises After Eleven (11) P.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 (18) Years of Age After One (1) A.M.** It shall be unlawful for any restaurant to employ any person under the age of eighteen (18) 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 (11) P.M.** It shall be unlawful for any person holding a restaurant license to allow any person under the age of sixteen (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*

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**Chapter 8. Service Stations**

- 15-8-1 Definitions
- 15-8-2 Non-business 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 Non-business 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*

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

### 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 15-1-12, 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 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 or his designee prior to issuance of a license.

*History: 01/99, 10/10*

**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.

*History: 01/99, 10/10*

**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*

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

### **PART 1 – SOLICITORS AND PEDDLERS**

- 15-11-1 Purpose
- 15-11-2 No Other City License or Approval Required
- 15-11-3 Definitions
- 15-11-4 Exemptions from Chapter
- 15-11-5 Solicitation Prohibited
- 15-11-6 Registration of Solicitors
- 15-11-7 Application Form
- 15-11-8 Written Disclosures
- 15-11-9 When Registration Begins
- 15-11-10 Issuance of Certificates
- 15-11-11 Form of Certificate and Identification Badge
- 15-11-12 Maintenance of Registry
- 15-11-13 Non-Transferability of Certificates
- 15-11-14 Denial, Suspension or Revocation of a Certificate of Registration
- 15-11-15 Appeal
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- 15-11-18 Duties of Solicitors
- 15-11-19 Time of Day Restrictions
- 15-11-20 Buyer’s Right to Cancel
- 15-11-21 Penalties
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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 of the applicants criminal background check, dated no older than 180 days prior to the date of Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant and equivalent report prepared by the corresponding public safety agency of the applicant’s home state if the applicant is not a Utah resident; 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 and equivalent report prepared by the corresponding public safety agency of the applicant’s home state if the applicant is not a Utah resident.

**“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”** includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other Entity:

(1) 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,

(2) 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; and,

(3) 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.

**“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;
  - (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); or,
  - (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 estoppels 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, 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; or,

(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 that is submitted to and documented by the City:

- (1) By any of the following:
  - (a) 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;
  - (b) City law enforcement or Business License Official; or,
  - (c) Any other regularly established law enforcement agency at any level of government.
- (2) 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.

*History: 04/12*

**15-11-4 Exemptions from Chapter.** The following are exempt from Registration under this Chapter:

- (1) Persons specifically invited to a Residence by a Competent Individual prior to the time of the person(s) arrival at the Residence;
- (a) 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;

(b) 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;

(c) 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,

(d) 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; or,

(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 event 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; and,

(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 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.

(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,

(ii) 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:

(a) The Applicant(s) address;

(b) The Applicant(s) and/or Responsible Person or Entity(s) state tax identification and special use tax numbers, if any; and,

(c) The validity of the Applicant(s) Proof of Identity.

(2) The 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; and,

(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; or,

(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; or,

(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; (c) 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:

(A) Establish Proof of Identity;

(B) Provide a B.C.I.; or,

(C) 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("Substantiated Report")(2)(d), 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 the Applicant, the Responsible Person or Entity, or legal counsel for either whom: (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; or,

(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; and,

(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.

**15-11-22 Reserved to 15-11-30.**

*History 01/07 (Rewritten); 04/12*

## **PART 2 – VENDORS**

**15-11-31 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*

**15-11-32 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*

**15-11-33 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.

(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.

*History: 01/99, 10/10*

**15-11-34 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*

**15-11-35 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*

**15-11-36 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 Community Development Department. The applicant shall pay the fee for the work card, 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, 10/10*

**15-11-37 Repealed.**

*History: 01/99; 10/10*

**15-11-38 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*

**15-11-39 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*

**15-11-40 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;

(3) The distribution of free samples of goods, wares, and merchandise by any individual from his/her person; or,

(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*

**15-11-41 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*

**15-11-42 Hours of Operation.** Vendors shall be allowed to engage in the business of vending only between the hours of 8 a.m. and sundown. License Official may establish more restrictive hours for stationary vendors depending on location.

*History: 01/99, 10/10*

**15-11-43 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*

**15-11-44 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; or,

(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*

**15-11-45 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 §15-11-36; or,

(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*

#### **15-11-46 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 Community Development 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; and,

(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 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*

**15-11-47 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*

**15-11-48 Appeals.**

(1) If the License 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 License Official's decision to the City Manager in accordance with § 15-1-16(3) of the City Code.

(2) The filing of an appeal stays the action of the License Official in suspending or revoking a license or permit or any part of the business operation being conducted under license or permit until the City Manager makes a final decision, unless the License 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 License Official shall take or cause to be taken action as is necessary to immediately enforce the suspension, revocation, or order.

*History: 01/99, 10/10*

**15-11-49 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*

**15-11-50 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*

**15-11-51 Reserved to 15-11-60.**

**PART 3 – TEMPORARY BUSINESS.**

**15-11-61 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*

**15-11-62 Repealed.**

*History: 01/99; 10/10*

**15-11-63 Participant License Required.** A participant shall not be required to obtain the license required by § 15-11-61, 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*

**15-11-64 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*

**15-11-65 Repealed.**

*History: 01/99; 10/10*

**15-11-66 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.

*History: 01/99, 10/10*

**15-11-67 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 License Official's decision to the City Manager, pursuant to Chapter 15-1-16(3) of this Title.

*History: 01/99, 10/10*

**15-11-68 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*

**15-11-69 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*

**15-11-70 Reserved to 15-11-80.**



## Chapter 12. Sale of Fireworks

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

**15-12-1 Sale, Discharge and Possession of Fireworks Restricted.** It is a Class “B” misdemeanor for any person, firm, partnership or corporation to offer for sale, expose for sale, sell, or possess, or use, or explode any fireworks in violation of the State Fireworks Act of 1983 (11-3-1 et seq. Utah Code Annotated) and all rules and regulations related as established by the State of Utah. The sale of Class “C” fireworks permitted by the Act and regulations shall only be made in compliance with the restrictions established by the State, this Chapter and after acquiring a business license, as required in Title 15 of the Clinton City Code of Ordinances, with the exception of those persons only selling toy pistols, toy canes, toy guns, or sparklers. A violation of this Chapter or of the State Fireworks Act and its accompanying regulations shall be deemed to be a violation of the Ordinances of Clinton City subject to the penalties set forth by the State and in Title 10 of the Clinton City Code of Ordinances.

*History: 06/99; 09/11*

**15-12-2 Definitions.** Refer to Title 10 for definitions.

*History: 06/99; 09/11*

**15-12-3 Application to Sell Fireworks.**

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

- (a) Obtain a permit from the Clinton City Fire Department as set forward in Title 10 and provide a copy of the approved Fire Department permit application and copies of all required additional documents with the Business License Application;
- (b) Be accompanied by a copy of the applicant’s Utah Sales Tax License.

(2) Applications shall be made a minimum of fourteen (14) working days prior to the time when the applicant wishes to begin selling fireworks within the time constraints set forth in this Chapter.

(3) Schedule and pass an inspection of a Temporary Stand by the Building Official or designated representative.

*History: 06/99; 09/11*

**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.** Refer to Title 10 for regulations related to permanent structures, temporary structures, and tents.

*History: 06/99; 09/11*

**15-12-6 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 or revocation of the License.

*History: 06/99*

**15-12-7 Days When Fireworks May be Sold.**

Fireworks may be sold on dates established within the Rules set by the State.

*History: 06/99, 09/11*

**15-12-8 Days When Fireworks May be Discharged.** Fireworks may be discharged on dates established within the Rules set by the State.

*History: 06/99, 09/11*

**15-12-9 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) Firework displays sponsored by the City.

(a) Applicants for a public display of fireworks where no charge for attendance is assessed or the theatrical use of fireworks with a valid permit issued by the Clinton City Fire Department as established in Title 10.

*History: 06/99; 09/11*

## 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.** 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:

- (1) Complete compliance with the current Utah Department of Transportation rules and regulations for tow truck operators;
- (2) Issuance of a Department of Transportation certificate for each tow during the policy term of the license;
- (3) 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;
- (4) Permanent readable signs on the doors of the tow truck listing the name of the applicant, address and telephone number;

(5) Competent evidence of surety bond of \$1,000 from good and sufficient sureties to ensure continued compliance with these ordinances;

(6) 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;

(7) 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;

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

(9) 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*

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## Chapter 14. Tobacco Specialty Business

- 15-14-1 Tobacco Specialty Business License
- 15-14-2 Definitions
- 15-14-3 Location
- 15-14-4 Business Established on the Date of this Statute

### **15-14-1 Tobacco Specialty Business License.**

(1) Any Tobacco Specialty Business, as defined in this section, shall be licensed by the City as a retail tobacco specialty business.

(2) All applicants for a Tobacco Specialty Business License shall submit a copy of the license issued by the Utah State Tax Commission before the City license is issued.

### **15-14-2 Definitions.**

**"Community Location"** means:

- (1) A public or private kindergarten, elementary, middle, junior high, or high school;
- (2) A licensed child-care facility or preschool;
- (3) A trade or technical school;
- (4) A church;
- (5) A public library;
- (6) A public playground;
- (7) A public park;
- (8) A youth center or other space used primarily for youth oriented activities;
- (9) A public recreational facility; or
- (10) A public arcade.

**"Retail Tobacco Specialty Business"** means a commercial establishment in which:

- (1) The sale of tobacco products accounts for more than 35% of the total annual gross receipts for the establishment;
- (2) Food and beverage products, excluding gasoline sales, is less than 45% of the total annual gross receipts for the establishment; and
- (3) The establishment is not licensed as a pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.

**"Tobacco Product"** means:

- (1) Any cigar, cigarette, or electronic cigarette as defined in Utah State Code Section 76-10-101 ;

(a) A tobacco product as defined in Section 59-14-102 , including:

- (i) Chewing tobacco; or
- (ii) Any substitute for a tobacco product, including flavoring or additives to tobacco; and

(b) Tobacco paraphernalia as defined in Utah State Code Section 76-10-104.1.

### **15-14-3 Location.**

(1) A retail tobacco specialty business shall not be located within:

- (a) 1,000 feet of a community location;
  - (b) 600 feet of another retail tobacco specialty business; or
  - (c) 600 feet from property used or zoned for:
    - (i) Agriculture use; or
    - (ii) Residential use.
- (2) For purposes of § (1) above, the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of the community location, or agricultural or residential use, without regard to intervening structures or zoning districts.

(3) The City may revoke a business license issued under this section:

- (a) If a licensee engages in a pattern of unlawful activity under Utah State Code Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- (b) If a licensee violates the regulations restricting the sale and distribution of cigarettes and smokeless tobacco to protect children and adolescents issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(c) Under other provisions of state law or this Code.

**15-14-4 Business Established on the Date of this Statute.** In accordance with the following, a retail tobacco specialty business that has a business license and is operating lawfully within Clinton on or before May 8, 2012, is exempt from § 15-14-3.

- (1) The business license is renewed continuously without relapse or permanent revocation;
- (2) The retail tobacco specialty business is not closed for business or otherwise suspends the sale of tobacco products for more than 60 consecutive days;

(3) The retail tobacco specialty business does not substantially change the business premises or its business operation; and

(4) The retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including zoning ordinances, building codes, and the business license issued prior to May 8, 2012.

*History: 04/12*

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**Chapter 15. Repealed**

Rental Dwelling Units Moved to Title 15-19

*History: 11/10***Chapter 16. Film/Filming Requirements and Restrictions**

- 15-16-1 Permit Required
- 15-16-2 Repealed
- 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 Repealed.***History: 10/10*

**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:

(4) 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.

(5) 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 of construction and electrical plans.
- (3) Construction of set pieces may require the approval of the City's Building Official. Three (3) 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.

(d) 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*

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**Chapter 17. Sexually-Oriented Businesses***History: Added 1/10***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.

**15-17B-1 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-4 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;
- (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;

(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”** means 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; or,
  - (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. The categories of sexually-oriented businesses are:

- (1) Adult book store, adult novelty store, adult video store;
- (2) Adult business;
- (3) Adult motion picture theater;
- (4) Adult theater;
- (5) Semi-nude dancing agency;
- (6) 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 unincorporated entities included on the application shall also identify each individual authorized by the corporation, partnership, or unincorporated entity to sign the checks for such corporation, partnership, or unincorporated 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 eighteen (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; and,

(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 December 31st 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-8 Issuance 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 (18) 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 six (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; and,
- (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-9 Transfer of Business License.** Any sexually-oriented business licenses granted under this chapter shall not be transferable.

**15-17C-10 Notice 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; and,

(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 one (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; or,

(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-3 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; or,
- (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; or,
- (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.

*History: 10/10*

**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; or,

(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;
  - (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.
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**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; or,
- (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-3 Effect 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-4 Appeal 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-5 Violation – 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-6 Severability.** Clinton City Municipal Code Title 15-17 and each section and provision of said chapter there under, are hereby declared to be independent divisions and subdivisions and, notwithstanding 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.

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## Chapter 18. Newsracks

15-18-1	Intent
15-18-2	Definitions
15-18-3	Placement Prohibitions
15-18-4	General Requirements
15-18-5	Abandonment
15-18-6	Violations - Removal of Rack

**15-18-1 Intent.** It is the intent of the City to keep the road edge, park strips, and sidewalks clear of obstructions to facilitate ease of roadway work, snow removal, pedestrian traffic, and aesthetics within the City. The control of newsracks within the City is intended to create and maintain a safe, clean and maneuverable environment as well as an area for storage of snow and construction materials related to roadway projects.

**15-18-2 Definitions.** As used in this chapter, the following terms and phrases shall have the meanings ascribed to them in this Section:

"Newsrack" means any self-service or coin-operated box, container, storage unit or other dispenser, installed, used or maintained for the display and sale of newspapers or news periodicals or distribution of fliers for sales and rental information.

**15-18-3 Placement Prohibitions.** No person shall install or maintain any newsrack which rests upon or projects onto the City right-of-way.

**15-18-4 General Requirements.** No newsrack shall, whole or in part, rest upon, in or over any public sidewalk or park strip in the City.

(1) No newsrack shall be chained, bolted or otherwise attached to any property not owned by the owner of the newsrack, or to any permanently fixed object.

(2) No newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale, purchase or distribution of the

newspaper, news periodical or material sold or distributed therein.

(3) Each newsrack shall be maintained in a clean, neat and attractive condition and in good repair at all times.

**15-18-5 Abandonment.** In the event any newsrack installed pursuant to this chapter is not serviced with the publication it is designed to disseminate for a period of fourteen (14) days, the City reserves the right to remove the same pursuant to the procedure set out in § 15-18-6. For purposes of this Section, abandonment shall include, but is not limited to, circumstances where no publication is in the rack for a period of fourteen (14) days.

### **15-18-6 Violations - Removal of Rack.**

(1) Any newsrack installed, used or maintained in violation of the provisions of this chapter may be summarily removed and stored in any convenient place by the Community Development Director or his designated representative. Prior to removal he shall take reasonable steps to notify the owner thereof. Upon failure of the owner, following notice, to claim the newsrack and pay the expenses of removal and storage within thirty (30) days after the removal, the newsrack shall be deemed to be unclaimed property in possession of the City and may be disposed of pursuant to law.

(2) In the case of violations of this chapter relative to restrictions upon attachments of newsracks to property other than that owned by the owner of the newsrack, to fixed objects or each other, and upon location of newsracks, the Community Development Director or his designated representative may, as an alternative to removal under § (1) above, remove the attachment and/or move the rack or racks in order to restore them to a legal condition.

*History: 03/10, 10/10*

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**Chapter 19. Repealed**  
*History 04/11*