

ORDINANCE NO. 2023-30

AN ORDINANCE LICENSING AND REGULATING COMMERCIAL BUSINESSES WITHIN LAKE POINT

WHEREAS Lake Point is authorized to license for the purpose of regulation any commercial business within Lake Point's municipal boundaries and may regulate all such commercial businesses by ordinance, and may impose fees on commercial business to cover costs of regulation, pursuant to Utah Code § 10-1-203.

WHEREAS the Lake Point City Council desires to regulate commercial business within Lake Point and to provide a process by which commercial businesses may be licensed for operation in accordance with Lake Point ordinances, resolutions, and other regulations;

NOW, THEREFORE, BE IT ORDAINED by the Lake Point City Council as follows:

Section 1. Definitions.

- a. "City" means the municipality of Lake Point.
- b. "Commercial Business" means any enterprise carried on for the purpose of gain or economic profit, including but not limited to the sale of tangible personal property, the manufacturing or warehousing of goods or property, and the rendering of services for or to others for consideration primarily located within a commercial zone, or requires a specific license from the State and the office address is within Lake Point city boundaries. The following shall not be considered a "commercial business" subject to this ordinance:
 - i. The acts of employees rendering services to employers;
 - ii. Construction contractors and similar contractors who are contracted to work on a particular job site for a particular time, who do not maintain a place of business, office, employees, or equipment within the city;
 - iii. Religious institutions;
 - iv. Any commercial business that is expressly exempted from municipal licensing under city, state, or federal law.
- c. "Commercial Business License" means the certificate, license, or permit required by this ordinance for any commercial business, including licenses for businesses, solicitors, food truck businesses, and temporary businesses.
- d. "Commercial Site" means any building, structure, property, or portion thereof that is lawfully used, designated, and/or zoned under applicable law for business, commercial, or industrial operations. Buildings or other structures may not be used as part of a commercial site unless they were constructed in accordance with all applicable building, construction, fire, and other safety codes.

- e. "Food Truck," "Food Truck Business," "Food Truck Event," and related terms have the same meaning as set forth in Title 11, Chapter 56, Utah Code.
- f. "Place of Business" means each separate location maintained or operated by the licensee within the city from which business activity is conducted or transacted.
- g. "License year" shall commence on July 1 and expire on the following June 30 of each year.
- h. "Mobile Business," "Enclosed Mobile Business," and "Mobile Business Event," and related terms have the same meaning as set forth in Title 11, Chapter 56, Utah Code.
- i. "Person" means any individual, business, company, corporation, firm, partnership, venture, or other entity of any kind.
- j. "Residential Business," "Home Occupation," and "Home-Based Business" have the same meaning as set forth in the city's residential business ordinance.
- k. "Solicitor" means any person, whether or not a resident of the city, whether or not working for themselves or for another, and whether or not they have a place of business within the city, who travels from place to place within the city offering for sale, taking or attempting to take orders, or establishing or attempting to establish appointments, for the current or future sale of goods, wares, merchandise, personal or real property, or services, regardless of whether the person has or carries and exposes for sale a tangible good or a sample thereof or is collecting advance payments. Solicitor does not include any individual person who is engaged in non-commercial activity for a religious institution, church, or political purpose.
- l. "Temporary Business" means any person, whether or not a resident of the city and whether or not working for themselves or for another, who engages in a temporary business of selling and delivering goods, wares, and merchandise, or the advertising, engagement, and scheduling of services within the city, and who in furtherance of such purpose, hires, leases, rents, uses, or occupies any portion of a building, structure, vehicle, street, parking area, or other property within the city for a period of less than a license year for such business purposes. Does not include food truck businesses.
- m. "Temporary" means, in relation to temporary commercial businesses and agricultural operations, commercial business operations on a regular or continual schedule that continue for a period of at least 30 days.

Section 2. Business License Required.

- a. It shall be unlawful for any person to engage in commercial business, including solicitors and temporary commercial businesses, within Lake Point without obtaining the licenses and permits required by this ordinance.
- b. Every license or permit issued under this ordinance shall be posted by the licensee in a conspicuous and visible place within the place of business and shall be promptly removed upon expiration.

- c. 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 their person, ready to be shown upon request to an authorized individual during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

Section 3. Commercial Business License Term and Renewal.

- a. Unless otherwise specified herein or as a condition of issuance of a commercial business license, each license shall be valid only for the applicable license year and shall expire on June 30 of each year, subject to renewal.
- b. Each person desiring to renew a commercial business license shall apply for such renewal by submitting the appropriate application form, all required documentation, complete a fire inspection, and pay any required fee.

Section 4. Solicitor Regulations

- a. Solicitors shall conspicuously display their license on their person at all times during which such solicitors are engaged in the business for which they are licensed and shall exhibit or produce such license upon request of any authorized officer or any resident of the city.
- b. Solicitors shall not approach or knock on any private property, building, or structure whereupon a sign is posted to the effect that solicitation at such place is prohibited.

Section 5. Exceptions to Commercial Business License.

- a. **Agricultural Operations.** No commercial business license shall be required for the use of property for agricultural purposes, such as the growing or raising of crops and livestock.
- b. **Deliveries.** No business license shall be required for any person whose only business activity in the city is the mere delivery in the city of property sold at a place of business maintained outside of the city, and where such person does not engage in further business within the city beyond mere delivery of property.
- c. **Mobile Businesses and Food Trucks.**
 - i. No commercial business license shall be required for a mobile business or food truck to operate during a mobile business or food truck event on private property.
 - ii. For operation of mobile businesses and food trucks outside of mobile business or food truck events, no commercial business license shall be required for a mobile business or food truck business operating within the city if the business holds a current business license in good standing from another political subdivision of the State of Utah, including a current health department permit or other approval, as applicable, from a local health department within the

State of Utah and a current approval of a political subdivision of the State of Utah showing that the business passed a fire safety inspection, as applicable.

- iii. If a mobile business or food truck business does not have a current business license in good standing from another political subdivision, the business shall obtain a Lake Point commercial business license prior to operating within the city.
 - iv. If each mobile business or food truck associated with a mobile business or food truck business does not have a current health department permit or other approval, as applicable, from a local health department within the State of Utah and/or proof of successful passing of a fire safety inspection, as applicable, the person owning or operating the business shall obtain such approvals for each business prior to operating within the city.
 - v. Mobile businesses and food trucks may not operate within a public right of way without the city's written authorization. City shall grant such authorization in accordance with the City's adopted policies regarding mobile businesses and food trucks, and all such businesses shall comply with such policies and the conditions of the written authorization.
 - vi. If a mobile business or food truck operates in the same location more than 10 hours per week, the person that owns or operates the business shall provide a site plan showing appropriate vehicular and pedestrian access and egress and compliance with all applicable zoning, fire code, and other regulations.
 - vii. Mobile businesses and food trucks shall comply with all tax reporting requirements for sales within the city.
- d. Residential Business. No commercial business license shall be required for a resident of Lake Point to operate a home occupation. Home-based business shall, and home occupations may, obtain a commercial business license. Regardless of any business license requirements, residential businesses shall comply with all regulations related to the residential business, as the same may be adopted or amended from time to time. To the extent there is a conflict between this Ordinance and the city's ordinances and regulations governing residential businesses, the latter shall control.
- e. Youth Businesses. No commercial business license shall be required for a business that is operated only occasionally and by an individual who is under 18 years old.

Section 6. Classification of Commercial Business License. Commercial Business licenses shall be classified as follows:

- a. Class A: General Commercial
- b. Class B: General Commercial - alcohol (includes retail sales for on- and off-premise sales and consumption, manufacturing, and other commercial activities involving alcohol);

- c. Class C: Temporary Commercial and Solicitor business licenses;
- d. Class D: Residential businesses

Section 7. Commercial Business License in Addition to Other Approvals.

- a. Any commercial business license required under this ordinance is in addition to all other approvals, licenses, and permits required by other city ordinances, state, or federal law, including but not limited to zoning, land use, and other regulations.
- b. Issuance of a Lake Point commercial business license shall not be deemed or construed as a waiver of the city's right to enforce and require compliance with all other provisions of governing law.
- c. The commercial site associated with a commercial business license, if any, shall be inspected for compliance with fire and safety codes prior to issuance or renewal of a commercial business license.

Section 8. Commercial Business License Contents. Each commercial business license shall be signed by the city treasurer, attested by the city recorder, and contain the following information:

- a. Name: The name of the licensee and the business to whom such license has been issued.
- b. Amount: The fee paid.
- c. Type: The type of license and description of business so licensed, including the class of license, if licenses are divided into classes. For solicitors, the license shall be clearly marked as "Licensed Solicitor"
- d. Term: The term of the license with its commencement and expiration dates. The default term, unless otherwise provided for herein, shall be one license year. For licenses issued in calendar year 2023, unless otherwise provided for herein, the term of such license shall expire June 30, 2024.
- e. Location: The address of the place of business so licensed.

Section 9. Joint and Separate Commercial Business Licenses.

- a. Each separate place of business, including each branch or other separate property, and each separate person operating a separate business at the same location as another, shall obtain separate licenses for such place of business or separate business, which licenses shall authorize the licensee to engage only in the business licensed therein at such place of business.
- b. Where multiple businesses are operated by the same person at the same place of business, such person shall not be required to obtain separate licenses for conducting each business, but shall be issued one commercial business license which shall specify

all authorized businesses. The license fee shall be computed at the highest license fee applicable to any of the businesses being conducted at the place of business.

- c. Warehouses and distribution places used in connection with or incident to a commercial business licensed under this ordinance shall not be deemed to be separate places of business or branch establishments, unless such warehouse or distribution place is open to the public or used for retail sales or other business separate from the other business licensed under this ordinance.

Section 10. Commercial Business Permit Application. All commercial businesses, solicitors, and temporary commercial businesses, shall submit an application for a commercial business license with the following:

- a. Lake Point commercial business license application form with such information required by the city council or staff to ensure compliance with this ordinance, including but not limited to:
 - i. Name of the person desiring the license;
 - ii. Name of the business;
 - iii. Description of the type of business sought to be licensed;
 - iv. The place of business, including address or other identifying information;
 - v. The period of time for which such license is desired to be issued.
- b. Documentation that the place of Commercial business is an authorized and permitted commercial site.
- c. Payment of the appropriate fee as set by the city council.

Section 11. Solicitor and Temporary Commercial Business Applications. All applicants for a license as a solicitor or temporary commercial business shall, in addition to all other requirements of this ordinance, provide the following information with their application for a commercial business license:

- a. The name of the applicant and if the applicant is an employee or agent of another person, the name of such other person;
- b. The address of the applicant and if the applicant is an agent or employee of another person, the address of such other person, which shall be a physical address and not a post office box;
- c. A brief description of the nature of the business and the goods or services to be sold or offered, and from whom or where the applicant obtains the goods or services offered;

- d. The length of time for which the applicant desires to engage in business within the city. Solicitor and Temporary Commercial Business Licenses shall expire no later than thirty (30) days after issuance, unless an earlier date is established.
- e. The places within the city where the applicant proposes to carry on their business. For a temporary commercial business, such place shall be an authorized commercial site.
- f. A copy of the applicant's driver license or a copy of another government-issued identification, which, if the identification does not have a photograph of the applicant, or also if the picture on the identification is older than six (6) months, submission of a photograph of the applicant, taken within six (6) months immediately prior to the date of filing the application, which photograph shall be two inches by two inches (2" x 2"), showing the head and shoulders of the applicant in a clear and distinguishing manner.
- g. A background check or similar information, with a statement as to whether the applicant has been convicted of any crime of assault, fraud, or theft, any crime punished as a felony, or any crime that required proving or admitting to a dishonest act or false statement and whether the applicant has been penalized for violation of any municipal ordinance, and a description of the nature of the offense and the punishment or penalty assessed therefor.
- h. If the applicant is employed by another person, documents showing that the person for whom the applicant proposes to do business is authorized and licensed to do business within the state.

Section 12. Alcohol.

- a. Lake Point adopts by reference the Utah Alcoholic Beverage Control Act, Title 32B, of the Utah Code, as amended ("Alcohol Act").
- b. It shall be unlawful for any person to sell or manufacture an alcoholic beverage or product, whether for consumption at the commercial site or off premise, unless the person has obtained all state licenses and permits as required by the Alcohol Act and has obtained a Lake Point commercial business license authorizing the commercial sale or consumption of alcohol.
- c. A person seeking a Lake Point commercial business license authorizing the commercial sale or consumption of alcohol shall apply for such license and shall all information necessary or required by this Ordinance and the Alcohol Act, including:
 - i. The information required by Sections 10 or 11, as appropriate;
 - ii. A statement that the person has not had any type of license, agency, or permit issued by any local authority or the state related to the commercial sale or consumption of alcohol revoked within the last five (5) years;
 - iii. A statement that no partner, managing agent, officer, director, principal, or stockholder who holds at least twenty percent (20%) of the total issued and

outstanding stock of the person, was a partner or managing agent of any partnership, or is or was a managing agent, officer, director or a stockholder who holds or held at least twenty percent (20%) of the total issued and outstanding stock of any corporation that had a license, agency, or permit issued by any local authority or the state related to the commercial sale or consumption of alcohol revoked within the last five (5) years; and

- iv. Proof of the state's issuance of all required licenses or permits under the Alcohol Act for the business. If the person cannot obtain the state-required license or permit without first obtaining a Lake Point commercial business license, Lake Point may, if all other requirements of approval are met, issue a Lake Point commercial business license to such person authorizing the commercial sale or consumption of alcohol, conditioned on the person providing documentation of the person's obtaining all required state-issued licenses and permits within thirty (30) days after the issuance of the Lake Point commercial business license. If the person does not timely submit such documentation, the Lake Point commercial business license shall be revoked immediately upon written notice to the person, without need for a hearing on such revocation.
- d. Any person who obtains a commercial business license authorizing the commercial sale or consumption of alcohol shall remain in compliance with all city, state, county, and federal regulations and laws, including the Alcohol Act, and all conditions of any required license or permit.
- e. Any person who obtains a commercial business license to operate an off-premise retailer shall provide, upon request, and shall maintain valid records demonstrating that the off-premise retail manager and all off-premise retail staff have completed the alcohol training and education seminar required by the Alcohol Act, or shall ensure that such individuals shall complete such seminar within thirty (30) days after becoming employed.
- f. A person desiring to conduct a special or temporary event involving the commercial sale or consumption of alcohol shall, prior to such event, apply for and receive approval of all state-required permits and licenses under the Alcohol Act, comply with all mass gathering, health, and safety requirements imposed by the state or Tooele county, and shall obtain a Lake Point temporary commercial business license.

Section 13. Sexually Oriented Businesses.

- a. Reserved.

Section 14. Denials. An application for a commercial business license may be denied by the city in writing under the following circumstances:

- a. Fraud or misrepresentation in connection with the application;
- b. The applicant has previously had a Lake Point license revoked;

- c. The applicant has been convicted of a crime or violation of a municipal ordinance in connection with such business or place of business;
- d. Outstanding or overdue payments, charges, or fees owed to the city related to the applicant or place of business;
- e. Violation of land use and zoning regulations related to the place of business;
- f. Failure to comply with or obtain required permits, licenses, or other approvals under governing laws, including fire code inspection and compliance and any other city, county, state, or federal law or regulation.

Section 15. Appeals. An applicant may appeal the denial of any license requested pursuant to this ordinance to the city council by filing an appeal within fourteen (14) calendar days of the denial. The appeal shall be heard by the city council, who shall conduct a hearing within a reasonable time after receipt of the appeal.

Section 16. Revocation. A license issued pursuant to this ordinance may be revoked by the city council in writing, after at least fourteen (14) calendar days' written notice of a hearing set for such purpose, for any of the following causes:

- a. Fraud, misrepresentation, or a false statement contained in the application for the license.
- b. Fraud, misrepresentation, or false statement made in the course of carrying on the business.
- c. Any violation of this ordinance.
- d. Any violation of applicable land use or zoning regulations.
- e. Conviction of any crime or misdemeanor involving moral turpitude.
- f. Conducting the business in an unlawful manner as to constitute a breach of the peace or to constitute a menace or nuisance to the health, safety, or general welfare of the public.

Section 17. Violations.

- a. Each person who operates a commercial business without the licenses and approvals required by this Ordinance shall be provided written notice of the requirement to obtain a license. If the person applies for and obtains the required license within 30 days after the date of such notice, no further penalties shall apply.
- b. Each person who continues to operate a commercial business without a license after the notice and period described above who applies for a commercial business license or other approval required by this ordinance shall be subject to a penalty in the amount of the normal fee for such license or approval, which penalty shall be in addition to the normal fee for such license or approval.

- c. The failure to obtain a license required by this ordinance after the notice and period described above shall be a class B misdemeanor, and each day the business continues operating shall be a separate violation, unless the violation relates to an individual's use of their residence, in which case the first three violations within a 12-month period shall be an infraction, and no more than one infraction shall be issued for each 14-day period the violation continues.
- d. The failure to properly display or provide a license in the manner required by this ordinance shall be a class C misdemeanor. Each day the commercial business fails to display a license, and each incident where a licensee fails to provide a license upon a request from an authorized person, shall be a separate violation.
- e. Any other violation of this ordinance shall be a class C misdemeanor, and each day such violation continues shall be a separate violation, unless the violation relates to an individual's use of their residence, in which case the first three violations within a 12-month period shall be an infraction, and no more than one infraction shall be issued for each 14-day period the violation continues.
- f. Nothing herein shall restrict the city's rights and remedies, and the initiation of criminal procedures shall not prohibit the city from pursuing any available remedy at law or equity, including injunctive relief.

Section 18. This Ordinance shall be effective immediately upon its adoption and publication according to law.

PASSED, APPROVED, AND ADOPTED on the 29th day of November, 2023

Lake Point

By _____
Chair

ATTEST:

City Recorder



Voting:

Daniel Crawford	Yea ☒	Nay ☐	Absent ☐
Doyle Garrard	Yea ☒	Nay ☐	Absent ☐
Jonathan Garrard	Yea ☒	Nay ☐	Absent ☐
Kathleen VonHatten	Yea ☒	Nay ☐	Absent ☐
Ryan Zumwalt	Yea ☒	Nay ☐	Absent ☐