# **Ordinance 2024-12**

# **An Ordinance creating Business License Regulations**

# TITLE 4  BUSINESS LICENSES AND REGULATIONS

## CHAPTER 4 BUSINESS LICENSING

Sec. 4.20.010. Definitions.

For the purpose of this chapter, the following terms shall be defined as follows:

*Business* means and includes all activities engaged in within the incorporated limits of Hyde Park City carried on for the purpose of gain or economic profit; provided however, acts of employees rendering service to employers shall not be included in the term “business” unless otherwise specifically prescribed herein.

*City business license official (CLBO)* means the person designated or appointed by the City to review, approve, and deny business licenses and to issue notices and collect fees related thereto.

*Commercial site* means any building, structure, property, or portion thereof used or intended to be used as a place of business, which site is lawfully used, designated, and/or zoned under applicable law for business, commercial, or industrial operations and which site contains or has lawful access to all required improvements, utilities, facilities, and parking areas required for the business under applicable law. 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.

*Employee* means the operator, owner, or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity whatsoever. “Employee” also includes any salesman, agent or independent contractor engaged in the operation of said place of business in any capacity.

*Engaging in business* includes but is not limited to, selling tangible personal property at retail or wholesale, manufacturing goods or property, or rendering personal services for a consideration such as the proactive of any profession, trade, craft, business, occupation, or other calling. The rendering of personal services by an employee to an employer under any contract of personal employment shall not be considered as engaging in business.

*Food truck, food truck business, food truck event* and related terms have the same meaning as set forth in Title 11, Chapter 56 of the Utah Code, as amended.

*Home Occupation* means a business conducted from or within a residential property in accordance with HPC 4.40.

*Mobile business, enclosed mobile business, mobile business event*, and related terms have the same meaning as set forth in Title 11, Chapter 56 of the Utah Code, as amended.

*Person* shall mean any individual, receiver, assignor, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

*Place of business* means any location maintained or operated by a licensee within the incorporated limits of Hyde Park City, in which business activity is conducted or transacted.

*Solicitor* means any person, whether or not a resident of the city, whether or not working for themself 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.

*Temporary business* shall mean any business using a temporary or portable structure, which is set up for short-term retail sales used by any person, firm, partnership, corporation, association, society, or club for up to 30 days.

Sec. 4.20.020. Business license fees.

License fees for all businesses, temporary businesses, solicitors, mobile businesses, and other activities regulated by this chapter shall be paid according to the City’s fee schedule.

Sec. 4.20.030. Home occupations.

1. Home occupations shall obtain a business license in addition to any approval required pursuant to HPC 4.40.

2. No fee shall be charged for a business license or other approval for a home occupation if the combined offsite impacts of the home occupation do not materially exceed the offsite impact of the primary residential use alone. Home occupations that create or increase offsite impacts, such as with client or customer visits, deliveries to support the business, or the creation of dust, noise, or odors, shall be required to pay business license and other applicable fees.

Sec. 4.20.040. Unlawful to operate a business without a license.

It shall be unlawful for any person to engage in business within Hyde Park City, including temporary businesses and solicitors, without first procuring the licenses and permits required by this ordinance.

Sec. 4.20.050. Business license additional to all other approvals, licenses, and permits.

1. The business license required under this ordinance is in addition to all other approvals, licenses, and permits required by other applicable city ordinances, city land use regulations, county, state, or federal law. The failure of an applicant to obtain any other license or permit required by any such applicable law shall be grounds to deny or revoke a business license.

2. Issuance of a business license shall not waive the city’s right to enforce or require compliance with any other applicable city ordinances, city land use regulations, county, state, or federal law. The issuance of a business license does not constitute approval of or consent to any violation of any such applicable law. The issuance of a business license does not constitute issuance of any other required permit, authorization, license, or other approval. The applicant is responsible for obtaining all required permits, authorizations, licenses, and other approvals necessary for the business.

3. Prior to issuance of a business license, each separate place of business shall be found compliant with health, fire, and safety codes and other land use, business, and other regulations adopted by federal, state, and local agencies by inspection. The owner shall be responsible for scheduling inspections and obtaining approvals from each agency. Such inspections and compliance shall include:

a. Planning and zoning clearance prior to conducting business;

b. Fire marshal inspection for compliance with fire code prior to conducting business and annually thereafter;

c. Building inspection for compliance with building code prior to conducting business;

d. Inspection of utility connections and facilities for compliance with applicable law prior to conducting business;

e. Health department inspection as required for food preparation, food service, and other operations regulated by health codes, where applicable;

f. Utah State Alcohol and Beverage Service approval prior to conducting business, where applicable;

Sec. 4.20.060. Term of License; Delinquent date and penalty.

1. All license fees provided for in this ordinance shall be paid annually in advance, by the licensee to the CBLO on or before January 1st of each year.

2. All business licenses, other than temporary business licenses and solicitor licenses, shall be effective for a term no longer than January 1 through December 31 unless revoked pursuant to this chapter.

3. In the event renewal fees or renewal applications are not received at the office of the CBLO prior to January 1st, the business license shall lapse. A lapsed business license may be renewed by paying the penalty specified in the City’s fee schedule in addition to the business license fee by March 31 of each year, in which case the lapsed business license shall be reinstated in good standing for the remainder of the term.

4. A lapsed business license for which a renewal notice was issued that is not renewed by March 31 shall be deemed to be revoked without need to comply with any further or additional revocation procedures.

Sec. 4.20.070. Civil action to recover fee.

In all cases where this ordinance requires a license to be obtained and fixes the amount to be paid therefore, and where said amount shall not have been paid therefore, and where said amount shall not have been paid at the time or in the manner provided in this ordinance, a civil action may be brought in the name of the city against the person failing to pay such license fee to recover the same, including any penalties, and/or to enjoin further business operation of such person. In any case where several amounts for licenses or permits required or fixed by any city ordinance shall remain due and unpaid by any person, such several amounts of license fees may be joined as separate causes of action in the same civil complaint. The city may pursue any remedy available at law or equity to collect unpaid license fees and to prevent any person from engaging in business without a license. A person who violates this chapter shall pay all costs of collection and enforcement incurred by the city.

Sec. 4.20.080. Public records.

Records kept by the city such as are, or may be required in this ordinance, are considered public records under the Utah State Government Records Access Management Act. As such, they are subject to public inspection. The city shall charge a reasonable fee to individuals requesting information on issued business licenses in order to cover reasonable costs associated with research and reproduction of information.

Sec. 4.20.090. Exemption.

No license fee shall be imposed under this section upon any person engaged in business, which is exempt from taxation under the laws of the United States and/or the State of Utah; nor shall any such fee be imposed upon any person doing business within Hyde Park City without a branch or place of business within Hyde Park City who has paid a like or similar license fee to some other governmental unit within the State of Utah, nor shall any such fee be imposed upon the business of a bona fide farm or ranch engaged in any agricultural business useful to man unless said business is authorized to collect state sales taxes under Utah statute for sales made on such products.

Sec. 4.20.100. Branch establishments.

Unless exempted herein, a separate license must be obtained for each branch establishment or location of business within the city as if such branch establishments or locations were separate businesses and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; however, warehouses and distribution places used in connection without incident to a business licensed under this ordinance shall not be deemed to be separate places of business or branch establishments.

Sec. 4.20.110. Temporary business license.

No person shall operate a temporary business without a temporary business license; except that permitted by or under the control of the sponsoring unit of Hyde Park City approved special events. It is unlawful to operate a temporary business on days other than those covered by said license.

1. Temporary business licenses may be purchased for up to 30 days and may be renewed by the CBLO.

2. License fees shall be set forth in the fee schedule set by the city council.

3. If business is conducted from a temporary structure, the structure must consist of at least four walls, have no more than 200 square feet of floor space, be conducted in a commercial zone, and must be serviced by an approved electrical hook up if electricity will be in use. Hookups, along with temporary structure inspection will be done by the building inspector before business is approved. The structure must sit back at least ten feet from the back of side of a sidewalk, or from the property line. The business must be operated in a manner so as not to block traffic into or out of adjacent businesses or structures. One sign of 15 square feet or less is permitted with no other advertising such as flashing lights, loudspeaker, or calling out. It must meet all local and state health and safety requirements applicable to the type of business being carried out. The structure must be removed within five days after the temporary business license expires or the licensee will be guilty of a Class B misdemeanor and the city will be authorized to remove the structure and charge the licensee for the cost of removal plus storage expenses. Approved temporary business licenses shall constitute authority to so remove the structure and an agreement to reimburse the city for removal and storage fees.

4. Before a license is issued, the applicant must meet with the business licensing official for approval with the explanation of the business to be conducted. Written evidence must be provided by the owner stating approval of business. Also written evidence that restroom facilities for employees will be provided by another within 300 feet of the structure and written evidence that the owner of the premises upon which the portable structure is to be placed has given his consent for the placement of the structure and has approved the type of business to be conducted (if conducted from temporary structure).

5. A person desiring to operate a temporary business license from a temporary structure must submit a site plan of the property on which the temporary structure will be located with their application. Such site plan shall contain all information required to demonstrate compliance with this section.

6. Special events permits may be applied for by sponsoring units to conduct business and have concession stands in connection with requested event. If the event and activities comply with all applicable city ordinances, city land use regulations, county, state, and federal laws and regulations, a permit will be issued. The sponsoring unit will be assessed a permit fee equal to $100.00 per day. All business activities in connection with said event shall be at locations approved by the sponsoring unit, the city licensing official, the city planner, and the mayor and city council to overview the special event. The permit issued shall entitle each individual business or concession to operate without acquiring an independent license, but the duration of the business activity shall not exceed seven calendar days.

4.20.120. Solicitor licenses.

1. No person shall act as or engage in business as a solicitor without first obtaining a solicitor license.

2. 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.

3. 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.

4. Solicitor licenses shall be valid for no more than one (1) year from the date of issuance.

5. All applicants for a license as a solicitor shall, in addition to all other requirements of this chapter, provide the following information with their application for a 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 business licenses shall expire no later than one (1) year after issuance unless an earlier date is established.

e. The places within the city where the applicant proposes to carry on their business.

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.

6. Violation of this section shall constitute a class C misdemeanor, shall be grounds for revocation of the license, and shall preclude the issuance of any additional or further solicitor licenses to the individual so convicted.

4.20.130 Mobile business and food truck regulations

1. No business license shall be required for a mobile business, including a food truck, to operate during a mobile business or food truck event on private property.

2. For operation of mobile businesses and food trucks outside of mobile business or food truck events, no business license shall be required for a mobile business or food truck business operating within the city if the mobile business or food truck business holds a current business license in good standing from another political subdivision of the State of Utah, a current health department permit 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 food truck passed a fire safety inspection, as applicable.

3. If a mobile business or food truck business does not have a current business license in good standing from another political subdivision, the food truck business shall obtain a city business license prior to operating within the city.

4. If each mobile business or food truck associated with a mobile business or food truck business does not have a current health department permit from a local health department within the State of Utah 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 truck or other vehicle prior to operating within the city.

5. Mobile businesses and food trucks may not operate within a public right of way or other public property without the written authorization of the public entity that owns or has jurisdiction over the property.

6. 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.

7. Mobile businesses and food trucks shall comply with all tax reporting requirements for sales within the city.

Sec. 4.20.140. License applications.

1. Applications for business licenses shall be made to the city business licensing official on forms provided for that purpose. Such forms shall contain sufficient information so as to satisfy the requirements of city departments involved in the review process and such information as the city business licensing official may direct. Such information shall include at least the following:

a. Name of the person desiring the license;

b. Name of the business;

c. Description of the type of business sought to be licensed;

d. The place of business, including address or other identifying information; and

e. Description and documentation demonstrating that the place of business is a lawful and permitted commercial site, including documentation of available off-street parking.

2. Application forms shall be made available at the office of the city business licensing official during regular business hours or by mail. Each license application shall be accompanied by the regulatory license fee required to be paid for the issuance of the license desired.

3. Upon receipt of the completed application and the required fee, the CBLO, together with other city staff and officials, shall review such for compliance with this ordinance. Should the application be deemed incomplete, not sufficient, or the required fee not be included, said application will be returned to the applicant with an explanation as to its deficiencies. Signature of a city official shall not substitute for additional approvals, licenses, and permits (i.e. conditional use permits) required by applicable city ordinances, city land use regulations, county, state, or federal law, nor shall it be constructed as a waiver of such requirements.

Sec. 4.20.150. License issuance or denial.

An application will be reviewed and approved, approved with conditions, denied, or referred to the planning commission by the CBLO. A license may be denied if:

1. The applicant has been convicted of a fraud or felony by and state or federal court within the past five years or now has criminal proceedings pending against him/her in any state or federal court for fraud or a felony;

2. The applicant has obtained a license by fraud or deceit or has made any misrepresentation to the city in connection with the business license application and related information and materials;

3. The applicant has failed to pay personal property taxes or other required taxes or fees imposed by the city, county, or Utah State tax commission or been convicted or plead guilty to, or paid fines or settlements in a criminal or civil action by the state tax commission for the collection or, or arising from the non-payment of taxes;

4. The applicant is in violation the laws of Hyde Park City, Cache County, the State of Utah, or the United States governing the operation of the business for which the applicant is applying for the license, including any requirement of this chapter;

5. The applicant has failed to pay any outstanding fine imposed by the city related to the applicant, the business, or the property associated with the place of business;

6. The applicant cannot demonstrate that there is adequate off-street parking provided for the business in accordance with city land use regulations;

7. The place of business is not adequately or properly served by or connected to public and city utilities;

8. The place of business has not passed an inspection for compliance with fire, building, health, and other applicable safety codes; or

9. The business does not satisfy or comply with any other applicable city planning requirements and land use regulations or is not permitted within the property’s zone. A license may be referred to the planning commission when additional issues need to be addressed (i.e. conditional use permits).

Sec. 4.20.160. Conditions of approval of license.

The CBLO may impose conditions on the approval of a business license to ensure compliance with this chapter or any other applicable city ordinances, city land use regulations, county, state, or federal law. Such conditions shall be listed on the business license. The business shall comply with all such conditions of approval.

Sec. 4.20.170. Appeals of license denial.

Any denial for a business license or of any condition of approval of a business license may be appealed to the city council within 14 days of notification of such denial. All appeals must be made in writing and the city council will schedule a hearing on such within 30 days of receipt of the appeal unless another time is agreed upon by the parties. Failure to timely and properly appeal a denial or a condition of approval shall waive the applicant’s objection to such decision.

Sec. 4.20.180. Posting license.

It shall be the duty of any person licensed under this ordinance to keep such license posted in a prominent place on the premises used for such business at all times. Every licensee not having a fixed place of business shall carry such license on their person, ready to be shown upon request of an authorized individual, at all times while carrying on the business for which the license is issued.

Sec. 4.20.190. License to be shown to officials.

It shall be the duty of each and every person to whom a license has been issued to show the same at any proper time when requested to do so by any police officer, law enforcement officer, or city official.

Sec. 4.20.200. Transferability of licenses.

No license granted or issued under the provisions of this ordinance may be assigned, transferred, or sold by the licensee, nor may the license be used for any purpose or business other than that for which said license was issued. Furthermore, a business license issued for a particular location may not be transferred for use at another location. Any city business license transferred or used as described in this section is deemed revoked.

Sec. 4.20.210. Revocation.

Any license issued under this ordinance may be revoked by city council when the licensee has:

1. Performed any act that would result in denial of the business license under section 4.20.150;

2. Failed to comply with any condition of approval of the business license;

3. Engaged in its business without acquiring the appropriate additional approvals, licenses, and permits required by county ordinance, city ordinance, state or federal law for the operation of said business within the city; or

4. Has otherwise violated any requirement or provision of this Chapter.

Notification of the license revocation hearing shall be sent by the CBLO to the licensee at the address provided on the most recent application. Such notice shall be sent by certified mail. The hearing shall be held at least 14 days from the date of the notice, but not more than 30 days. At the hearing, the city council may revoke or suspend the license, place it on probation for a period of less than one year, impose additional conditions on the license, or take no action at all, as the circumstances merit. The city council shall issue a written decision documenting its decision and the reasons therefor.

Sec. 4.20.220. License renewal notice.

On or before the renewal date each year, the CBLO shall send a notice to each current licensee within the city, which shall state the amount of the regulatory fee to be imposed for the coming year. The enclosed form shall be completed with current information. The renewal notice shall be returned to the CBLO according to the directions. Renewal of licenses is not a right, and no claim of a vested right shall insure an applicant who has received the license in past years.

Sec. 4.20.230. Each portion of ordinance enacted separately.

If any chapter, section, subsection, sentence, clause, phrase, or portion of the ordinance, including, but not limited to any exemption, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this ordinance. The Hyde Park City Council hereby declare that it would have adopted this ordinance and each chapter, section, subsection, sentence, clause, phrase, portion thereof, irrespective of the fact that any one or more chapters, sections, subsections, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Sec. 4.20.240. Penalty.

Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a separate offense for each and every day or portion thereof, during which any violation of any other provisions of this Ordinance is committed, continued, or permitted. Upon conviction of any such violation, such person shall be punishable as a Class B misdemeanor except that in all cases where a corporation would be punishable for a misdemeanor, and there is no other punishment prescribed by ordinance, such corporation is punishable by a fine not exceeding $1,000.00.