



Regular City Council Meeting

Tuesday, September 24, 2024 at 6:00 pm

AGENDA

A regularly scheduled meeting of the Duchesne City Council will be held at the Duchesne City Office Building, 500 East Main, Duchesne, UT at the above date and time. The agenda will be as follows:

1. **Roll Call, Prayer, Pledge**
2. **Minutes**
3. **Business License**
4. **Planning And Zoning**
5. **Ordinance 24-4; An Ordinance of Duchesne City Amending Title 5 Police Regulations Chapter 1 Animal Control 5-1-4 Licensing of Dogs B. Application**
6. **Chapter 4 - Solicitors, Canvassers, Peddlers and Itinerant Merchants**
7. **15-Minute Open Session**

The City of Duchesne welcomes you and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address the Council. Your comments will be limited to three (3) minutes. The Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and provide direction to the appropriate member of City Staff for follow-up. Thank you.

8. **Book Of Complaints, Concerns And Comments**
9. **Mayor And Council Review Of Old Business**
10. **Work Session**
11. **Executive Session**
12. **Adjournment**

Attest:

Myra Young, Recorder: _____

Contact: Myra Young (myoung@duchesnecity.com 435-738-2464) | Agenda published on 09/23/2024 at 9:10 AM



Regular City Council Meeting

Minutes

Tuesday, September 10, 2024 at 6:00 pm

AGENDA

A regularly scheduled meeting of the Duchesne City Council will be held at the Duchesne City Office Building, 500 East Main, Duchesne, UT at the above date and time. The agenda will be as follows:

1. Roll Call, Prayer, Pledge

Minutes:

Mayor Rowley conducted the meeting. City Recorder, Myra Young, took minutes. City Council Members present were Bryce Hamilton, Tom Bruton, Jenny Adams, and Jason Baker. Council Member Cody Ivie was absent. Council Member Hamilton offered the prayer. Mayor Rowley led the Pledge of Allegiance.

Public Attendees: Lane Genereuax, Jill Johnson, Dan Harmer, Emily Harmer, Autumn Harmer, Elias Harmer, Summer Harmer, Whitney Benson, Kim Swasey, Danny Swasey, Matt Betts, Janet Jenkins, Melinda Larsen, Oaklee Larsen, Cindy Bruton, Wes Hanberg, Susan Hamilton, Rashae Harrison, Conely Moon, Margie Peatross.

2. Minutes

Minutes:

MOTION by Council Member Bruton, seconded by Council Member Baker to approve the minutes from August 27, 2024.

- Council Member Hamilton – Aye
- Council Member Bruton - Aye
- Council Member Adams - Aye
- Council Member Ivie – Absent
- Council Member Baker – Aye

Motion carried by unanimous vote.

3. Bills

Minutes:

MOTION by Council Member Hamilton seconded by Council Member Baker to pay the bills.

- Council Member Hamilton– Aye
- Council Member Bruton - Aye
- Council Member Adams - Aye
- Council Member Ivie – Absent
- Council Member Baker – Aye

Motion carried by unanimous vote.

4. Charges and Credits

Minutes:

The council reviewed the Charges and Credits

5. Business License**Minutes:**

- Enrico Damoc was not in attendance.
- Dan Harmer would like a business license. He will be providing veterinary services located at the Duchesne County Centennial Event Center as Ponderosa Veterinary Services.

MOTION by Council Member Bruton, seconded by Council Member Hamilton to approve a business license for Dan Harmer, veterinary.

- Council Member Hamilton– Aye
- Council Member Bruton – Aye
- Council Member Adams - Aye
- Council Member Ivie – Absent
- Council Member Baker – Aye

Motion carried by unanimous vote.

- Jill Johnson would like a business license. She will be offering vintage and thrift items, in addition to providing a space for farmers market vendors to sell their goods during the winter month located at 12 E. Main, Suite A as Gone Qwackers Vintage and Thrift Boutique.

MOTION by Council Member Hamilton, seconded by Council Member Adams to approve a business license for Jill Johnson, vintage and thrift boutique retail store.

- Council Member Hamilton– Aye
- Council Member Bruton - Aye
- Council Member Adams - Aye
- Council Member Ivie – Absent
- Council Member Baker – Aye

Motion carried by unanimous vote.

- Whitney Benson would like a business license. She will be providing insurance coverage options located at 59 W Main as Elevated Insurance Agency.

MOTION by Council Member Bruton, seconded by Council Member Hamilton to approve a business license for Whitney Benson, Insurance Agent.

- Council Member Hamilton– Aye
- Council Member Bruton - Aye
- Council Member Adams - Aye
- Council Member Ivie – Absent
- Council Member Baker – Aye

Motion carried by unanimous vote.

6. Planning And Zoning**Minutes:**

Nothing to report.

7. Rocky Point Ditch Company - Matt Betts**Minutes:**

Matt Betts, President of Rocky Point Ditch Company, approached the Council with the following concerns and requests and is asking for the city's assistance in resolving these.

Water usage:

- Determine the amount of water Duchesne City is taking from Rocky Point meters.
- Identify which meters are owned by the city.
- Ensure meters are working and obtain consistent monthly meter readings.
- Verify the city's water agreement and ensure sufficient water in the ditch.
- Confirm the proper amount of water coming down Rocky Point Ditch for city use.
- Verify the number of turnouts the city has.
- Rocky Point Ditch Company has limited capacity and there are no additional turnouts available.

The Council and Mayor discussed the biggest issue is Old Farm Road with the issue regarding who has legitimate water rights and from what water source. The residents claim they are using Duchesne City's water, Duchesne's agreement does not allow water use outside of the city limits unless certain conditions are met. The city is in support of Rocky Point Ditch Company in turning the water off to those residents if needed. Whitney Benson inquired how to prevent water shutoff for her neighbors located on Old Farm Road. Mayor Rowley advised those residents to present their case to Rocky Point Ditch Company's Board and/or purchase a water share. Matt Betts seeks a solution before next year's water turn-on. Mayor Rowley and Matt Betts will collaborate on this matter.

8. Dog Issues - Margie Peatross

Minutes:

Margie Peatross raised concerns about the issue of dogs running at large in Duchesne City, emphasizing the need for clear rules regarding dog ownership and management. She expressed a desire for residents to be informed about these regulations and to keep their dogs contained within their yards. In response, Council Member Bruton provided an update, noting that the dogs in question had been vaccinated and licensed during a recent clinic, and a citation had been issued. Margie confirmed that her situation had improved.

The discussion also highlighted the Duchesne Public Facebook page and the absence of a Duchesne City Facebook page, which has led to misinformation circulating without a means for correction. Employees and elected officials will not respond on social media. Residents are encouraged to contact the city through the following options, city office, Mayor Rowley, calling the after-hours number or animal control, with central dispatch, Duchesne County Sheriff's Department being the primary contact for such issues. Duchesne City has a contract in place with the Sheriff's Department and it is crucial to report these incidents to them for maintaining records and building cases against habitual offenders. Council Member Adams emphasized for Margie to document and take pictures for the officers, this will help with her case.

Mayor Rowley outlined the Impound Policy and Boarding Fees for Dogs: During a 12-month period, which includes escalating penalties for repeated offenses:

- 1st Offense: Documented verbal warning
- 2nd Offense: Written warning
- 3rd Offense: Dog impounded, \$50 fee plus \$10/day boarding
- 4th Offense: Dog impounded, \$100 fee plus \$10/day boarding
- 5th Offense: Dog impounded, \$150 fee plus \$10/day boarding

- After 5th Offense: Dog deemed a habitual offender and surrendered to animal control.

Mayor Rowley stated the Duchesne City Ordinances are available on the website. The city is actively promoting awareness of the ordinances, which will be made available for public viewing at the city office and included in monthly billing notices.

9. Draft Ordinance for Title 5 Chapter 1, 5-1-4 Licensing of dogs B

Minutes:

Council Member Baker addressed the issue of unregistered dogs in the city, highlighting that some owners may not choose to vaccinate their pets. Currently, owners without proof of vaccination are turned away when attempting to register their dogs, resulting in unlicensed animals. The Council aims to increase dog registration rates by amending the current ordinance. Council Member Baker read aloud the proposed draft changes. The proposed amendment would allow dog registration without immediate proof of rabies vaccination, though vaccinations would still be required.

Dr. Dan Harmer provided insights on rabies vaccinations: - Initial vaccination requires a booster after one year - Subsequent vaccinations are needed every 3 years - While he hasn't personally seen rabies cases, he frequently consults with human doctors about dog bites where the animal can't be located - Estimated cost of rabies treatment for humans is around \$5,000 - Utah's high vaccination rate contributes to the rarity of rabies cases.

Council Member Bruton sought confirmation that impounded dogs must have both rabies vaccination and licensing to be released to the owner.

The Council reviewed the draft amendment and plans to move forward with its adoption at the next city council meeting.

10. Cooperative Agreement

Minutes:

Mayor Rowley asked if the Council had a chance to read the Cooperative Agreement between Utah's Public Lands Policy Coordination PLPCO and Myton City and Duchesne City. The intent language reads: The Legislature intends that the Public Lands Policy Coordinating Office use the \$300,000 one-time General Fund provided by this item to grant: Duchesne City and Myton City Defense Fund \$300,000. These funds will be used for the legal fees to dispute the streets and alleyways with the tribe. Representative Christine Watkins and Senator Ron Winterton were able to secure these funds for the cities. Mayor Rowley read the Resolution of Appreciation.

CITY OF DUCHESNE, DUCHESNE COUNTY, UTAH RESOLUTION OF APPRECIATION
SEPTEMBER 10, 2024 RESOLUTION No. 24 - 1 A RESOLUTION OF IMMENSE GRATITUDE
TO REPRESENTATIVE CHRISTINE WATKINS & SENATOR RON WINTERTON FOR THEIR
LEADERSHIP IN OBTAINING THE LEGISLATIVE APPROPRIATION TO RESOLVE
LONGSTANDING & CRITICAL JURISDICTIONAL ISSUES. WHEREAS, Duchesne City has been
involved in a jurisdictional dispute since 2013 which has obligated the City to expend significant
resources to ensure the City continues to properly operate as a Utah municipality; WHEREAS, the
2024 Utah State Legislature, upon the approval and recommendation of Executive Appropriations
Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee,
appropriated \$300,000 to allow Duchesne City and Myton City to continue efforts to resolve the

jurisdictional dispute; WHEREAS, Appropriation Sponsor Representative Christine Watkins, an advocate for and champion of rural Utah, having represented District 67 since 2017, worked tirelessly on behalf of Duchesne City during the entirety of the 2024 Utah Legislative Session as well as the entirety of her career as a public servant dedicated many hours to securing the Appropriation; WHEREAS, Appropriation Cosponsor Senator Ron Winterton, a diligent public servant dedicated to the betterment of rural Utah, having represented Utah Senate District 20 since 2019, personally dedicated countless hours of service to secure the Appropriation; WHEREAS, all named parties, working together, made possible for such funds to be appropriated to Duchesne City and Myton by the Utah legislature; and WHEREAS, due to this Appropriation Duchesne City shall have the means necessary to continue in its efforts to resolve the long-standing jurisdictional issues and hope to enter into a fair and just settlement with the Utah Indian tribe that shall resolve all issues. NOW, THEREFORE, Be it resolved by the City Council of the City of Duchesne, Duchesne County, Utah, as follows: 1. Mayor Rodney Rowley and the Duchesne City Council hereby express their sincere appreciation, gratitude, thanks and praise to Representative Christine Watkins and Senator Ron Winterton for their dedication, attention, and skill in securing this vital appropriation from the Utah Legislature 2. Further, Mayor Rodney Rowley the Duchesne City Council hereby express their sincere appreciation, gratitude, and thanks to the Executive Appropriations Committee, Executive Offices and Criminal Justice Subcommittee, and the Utah Legislature for their essential involvement in this critical appropriation.

Adopted and approved this by the City Council of Duchesne City, Utah 10th day of September 2024.

MOTION by Council Member Adams seconded by Council Member Hamilton to approve Resolution 24-1.

- Council Member Hamilton– Aye
- Council Member Bruton - Aye
- Council Member Adams - Aye
- Council Member Ivie – Absent
- Council Member Baker – Aye

Motion carried by unanimous vote.

11. 15-Minute Open Session

Minutes:

Janet Jenkins raised concerns about the safety of the intersection at 5th North on the bench, where vehicles are cutting through the property near a stop sign, creating a hazardous situation for oncoming traffic and children on bikes. She requested permission from the Council to place large rocks at this location to deter vehicles from cutting through.

The discussion included whether the area is private or city property, which raised potential liability issues for the city if they approved the placement of rocks. Duchesne City requires a 10-foot clear zone, and alternative deterrents like K-rail were considered. Janet asked for a timeline for completion, while Lane expressed the need to follow up on liability concerns before proceeding. Mayor Rowley supported using rocks as a solution. Janet requested this be in writing before her contractor would do it. The Council also requested that Mayor Rowley consult with Jared Tingey, legal director of the Utah League of Cities and Towns, regarding liability issues before moving

forward, he will get with Janet when he has an answer.

Whitney Benson requested a recap of what was said about the irrigation water on Old Farm Road. Mayor Rowley indicated he has talked with the residents about their options, and went on to explain those options.

- Take their deed to Andrew Dutson at the Vernal Water Rights Department.
- Fill out an application.
- Determine the origin of their water right.
- Consult with Rocky Point Ditch Company about transferring the water right to their property.

Whitney inquired if the city would be shutting off the water. Rocky Point Ditch Company, not the city, will be shutting off water due to lack of water rights, they have no other option in this situation.

Whitney also inquired what it would take to have secondary water brought to Old Farm Road.

Mayor Rowley listed the following.

- Property owners should collectively approach Andrew Dutson.
- Attempt to obtain water rights.
- Bring water to city limits.
- The city would assist in installing a secondary pipeline with one hookup using city water.
- This process is expected to be quite expensive for the property owners.

Rashea Harrison would like an update on Hogan Park. Council Member Bruton explained the distinction between public and private nuisances. Public nuisances fall under the city's jurisdiction, while private nuisances, such as property devaluation, must be addressed through the court system. The city must designate an inspector to review city ordinances and determine if there is a violation. Normally, the Mayor would take this role, but due to a conflict of interest, another city employee or council member will need to be appointed. The City Council needs to review the ordinances in Title 9 Chapter 4 related to Manufactured Homes and Recreational Coaches, to ensure they are clear enough for enforcement. If a violation is found, a written warning and timeline for resolution will be issued, with potential litigation if unresolved. The Council must also consider if other locations are a nuisance to avoid singling out Hogan Park. Council Member Bruton recommends moving forward with ordinance review and inspector appointment. It was suggested Mayor Pro Tempore as a possible inspector.

Janet Jenkins suggested appointing someone from the community to address the Hogan Park issue, given its sensitivity as it involves the Mayor. She expressed concern that some City Council members may be reluctant to act impartially toward the Mayor. While it was noted that the Mayor Pro Tempore is a logical choice, Janet believes Council Member Bryce Hamilton, due to his long-standing relationship with the Mayor, would not be a fair choice as it might create discomfort. Council Member Hamilton, on the other hand, feels the City Council should handle the matter, possibly with the help of a mediator.

12. Book Of Complaints, Concerns And Comments

Minutes:

There were no new complaints, concerns, or comments.

13. Mayor And Council Review Of Old Business

Minutes:

- Council Member Adams wanted to follow up on the Council providing Planning and Zoning the go ahead on drafting the 30' setback ordinance. Mayor Rowley stated that he is not for

that change and asked the Council where they stand on the item. The Council discussed the reason for the change.

- Council Member Baker wanted to know if the animal control contract with Duchesne County Sheriff's Department had been signed. There was one grammatical change to be made and then it will be ready to sign, Mayor Rowley will follow up on this tomorrow.

14. Work Session

Minutes:

There was no work meeting.

15. Executive Session

Minutes:

There was an executive session held to discuss a water contract.

16. Adjournment

Minutes:

MOTION by Council Member Baker, seconded by Council Member Hamilton to adjourn the regular City Council meeting at 7:21 pm. and go into executive session to discuss a water contract.

- Council Member Hamilton – Aye
- Council Member Bruton - Aye
- Council Member Adams - Aye
- Council Member Ivie – Absent
- Council Member Baker – Aye

Motion carried by unanimous vote.

Attest:

Myra Young, Recorder: _____

ORDINANCE NO 24-4

• AN ORDINANCE BY THE CITY COUNCIL OF DUCHESNE CITY TO AMEND TITLE 5, POLICE REGULATIONS, CHAPTER 1, ANIMAL CONTROL, 5-1-4 LICENSING OF DOGS, B. APPLICATION, OF THE DUCHESNE CITY MUNICIPAL CODE

WHEREAS, the City has a legitimate interest in being able to identify a dog to its owner; the City Council would like to amend the wording of Title 5, Police Regulations, Chapter 1, Animal Control, 5-1-4 Licensing of dogs, B. Application; and

WHEREAS, a dog license tag is the surest apparent means of determining the owner of a dog; and

WHEREAS, a higher rate of licensure means a greater likelihood of being able to determine a dogs ownership; and

WHEREAS, it frequently happens that people refuse to or refrain from licensing their dogs because of the vaccination being required as a condition of obtaining a license; and

WHEREAS, the City would prefer to encounter an unvaccinated licensed dog with an identifiable owner, rather than an unvaccinated dog that is unlicensed and thus of uncertain ownership; and

WHEREAS, rabies vaccinations are required by Chapter 1, 5-1-14, regardless of licensure requirements.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUCHESNE, UTAH, THAT:

SECTION I – ENACTMENT

TITLE 5, POLICE REGULATIONS, CHAPTER 1, ANIMAL CONTROL, 5-1-4 LICENSING OF DOGS, B. APPLICATION BE AMENDED AS FOLLOWS:

TITLE 5 – POLICE REGULATIONS

CHAPTER 1 – ANIMAL CONTROL

5-1-4: LICENSING OF DOGS

B. APPLICATION:

License applications must be submitted annually to the department of animal control, utilizing a standard form which requests name, address, and telephone number of the applicant; breed, sex, color and age of the animal; and such rabies vaccination information as is available.

SECTION II - EFFECTIVE DATE

This ordinance shall take effect immediately upon its being passed by the City Council.

PASSED AND APODTEED by the City Council of Duchesne City, Utah on this ____ day of _____ 2024.

Rodney Rowley, Mayor

Attest:

Myra Young, City Recorder

Account No. _____
Business Activity _____
Fee _____

Ballard City Solicitor License Application

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Send all completed and properly signed forms (including attachments as necessary) along with applicable licensing fees to: Ballard City Business Licensing, Rt. 2 Box 2381, Ballard, UT 84066. For questions call 435 722-3393.

PLEASE TYPE OR PRINT LEGIBLY

Renewal (check and show changes only on form below)

SECTION I: Business Information — Please print clearly. Complete all lines — enter N/A if an item is not applicable

True/ Correct Legal Name of Solicitor:		Contact Phone No.:
All former names/ aliases used by Applicant in last 10 years:		
Business Entity/ DBA:		Commerce Entity No.:
Applicant — Date of Birth:	Applicant Sate Driver License/ ID Card No.:	State:
Utah State Special Event Sales Tax No. (call 801-297-6303):		
Applicant Home Address:		Home Phone No.:
Applicant Mailing Address:		
If different from Applicant, Responsible Party Name:		Phone No.:
Address of Responsible Party:		

SECTION II: Items required with application

- BCI Report less than 180 days old
- Proof of Identification (one of the following):
 - 1) Valid State– issued Driver License or Identification Card
 - 2) Valid Passport issued by the United States
 - 3) Valid USA Military Identification Card
- Waiver for City Enforcement Purposes (sign Section VI)
- Any Licenses/ permits.... Required to transact this business

SECTION III: Goods or Services Offered

SECTION IV: Written Disclosures

I have received and reviewed the disclosure information required by Ballard City solicitation Ordinance.

APPLICANT SIGNATURE _____

SECTION V: Disqualifying Status Questions — Affirm or Deny Each of the Following Statements*

* ANY NEGATIVE RESPONSE IN SECTION V OF THIS APPLICATION RENDERS THE APPLICANT DISQUALIFIED FROM CERTIFICATION*

- | | |
|---|---|
| <p>* I have been criminally convicted for:</p> <p>1) Felony homicide: _____ 2) Sexual assault of any kind: _____</p> <p>3) Physically abusing, sexually abusing, or exploiting a minor: _____</p> <p>4) Sale or distribution of controlled substance: _____</p> <p>* I have criminal charges currently pending for:</p> <p>1) Felony homicide: _____ 2) Sexual assault of any kind: _____</p> <p>3) Physically abusing, sexually abusing, or exploiting a minor: _____</p> <p>4) Sale or distribution of controlled substance: _____</p> <p>* I have had a criminal felony conviction within last 10 years _____</p> <p>* I was incarcerated in federal or state prison in last 5 years _____</p> | <p>* I was criminally convicted of a misdemeanor in last 5 years involving:</p> <p>1) A crime of moral turpitude: _____</p> <p>2) Violent or aggravated conduct with persons of property: _____</p> <p>* I have a Final Judgment entered against me in the last 5 years for:</p> <p>1) Engaging in fraud or intentional misrepresentation: _____</p> <p>2) A debt that was non-dischargeable in bankruptcy: _____</p> <p>* I am now on parole/ probation to any court, penal institute, or govt. entity including being under house arrest or subject to a tracking devise _____</p> <p>* I have an outstanding arrest warrant from any jurisdiction: _____</p> <p>* I am now subject to a protective order for physical or sexual abuse: _____</p> |
|---|---|

SECTION VI: Waiver Statement and Applicant Acknowledgement of Written Disclosures and Disqualifying Status

I, the undersigned, do hereby verify, under penalty of perjury, that the information provided herewith is complete, truthful and accurate to the best of my knowledge and belief. I do hereby agree to allow the City to obtain a name/ date of birth BCI background check for enforcement purposes of the Ballard City Ordinance. I agree to conduct business in complete accordance with all laws, ordinances, and regulations governing operation of such business. I acknowledge that soliciting without a valid certificate in plain view may result in revocation of such and/ or citation. I understand that once the certificate of registration issued, it becomes invalid if any of the application information changes, and a new application will be required to update the information on record.

Signature of Applicant _____ Date _____

Mayor Robert Abercrombie _____ Date _____

Date Approved _____

Approval of Uintah County Sheriff _____ Date _____

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5.04 Solicitors, Canvassers, Peddlers And Itinerant Merchants

5.04.010 Definitions

5.04.020 Licensing And Fees

5.04.030 Grounds For Denial

5.04.040 Required Signatures

5.04.050 City Council Actions

5.04.060 Appeal

5.04.070 Form Of Certificate And Identification Badge

5.04.080 Deceptive Soliciting Practices Prohibited

5.04.090 "No Soliciting" Notices

5.04.100 Certain Solicitations Prohibited

5.04.110 Time Of Day

5.04.120 Right To Residential Solicitation Sale

5.04.130 Penalties

5.04.140 Private Right Of Action

5.04.150 Additional Requirements

5.04.010 Definitions

CANVASSER OR SOLICITOR: Any individual whether or not a resident of the City, traveling either by foot, wagon, motor vehicle or other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales; provided, that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

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

TRANSIENT MERCHANT, ITINERANT MERCHANT OR ITINERANT VENDOR: Any person, firm or corporation, whether as owner, agent, cosigner or employee, whether or not a resident of the City, who engages in a temporary business of selling and delivering goods, wares and merchandise within the City, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this ordinance merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. Utah Code Annotated 9-451.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.020 Licensing And Fees**1. LICENSE REQUIRED:** It shall be unlawful for:

- a. Transient Merchant, Itinerant Merchant or Vendor to engage in such business without first obtaining a license therefore in compliance with the provisions of this ordinance. Utah Code Annotated 9-451.
- b. Any person to engage in the business of peddler without first obtaining a license therefore as provided in this ordinance.
- c. Any solicitor or canvasser to engage in such business without first obtaining a license therefore in compliance with the provisions of this chapter. Utah Code Annotated 9-451.

2. APPLICATIONS FOR LICENSE: Applicants for licenses under this ordinance, shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the City Recorder, which shall give the following information: Utah Code Annotated 81-5, 10-15.

- a. The name and address of the applicant, and if the applicant is an employee or an agent of a corporation the name, address of the corporation, and the state of incorporation.
- b. Proof of Identity: An in person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant:
 - i. A valid driver's license issued by any state
 - ii. A valid passport issued by the United States
 - iii. A valid identification card issued by any state
 - iv. a valid identification issued by a branch of the United States military
- c. Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.
- d. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the City; the local address of such individual and the permanent address of such individual.
- e. The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce
- f. The applicant shall provide a special events sales tax number for either the applicant, or the responsible person or entity for which the applicant will be soliciting.
- g. Marketing Information:
 - i. the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
 - ii. 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.
- h. If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons.

- i. The length of time for which the applicant desires to engage in business within the municipality.
 - j. The place or places within the municipality where the applicant proposes to carry on his or her business.
 - k. A list of the other municipalities in which the applicant has engaged in business within the six (6) month period preceding the date of the application.
 - l. 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.
 - m. A statement as to whether or not the applicants, or any of his employees, have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.
 - n. If the applicant desires to sell fresh vegetables, fruits, meats, or other foodstuffs, a statement by a reputable physician of the state, dated not more than ten (10) days prior to submission of the applicant, certifying the applicant to be free of infectious, contagious or communicable diseases.
 - o. If the applicant is employed by another person, firm, or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to a business within the state.
 - p. Attach to their application the following: two (2) letters of recommendation from any person residing in or doing business in the City, certifying the applicant's good moral character and business responsibility, or, in lieu of such letters, other evidence which may be used by the City Recorder to satisfy the City Recorder's duties under this title; credentials from the person, if any, for which the applicant proposed to do business, authorizing the applicant to act as such representative.
 - q. Upon receipt of the application, the City Recorder shall cause a set of applicant's fingerprints to be taken and attached to the application; the recorder shall also cause a picture to be taken and attached to the application.
 - r. Applications for itinerant merchants and solicitors shall be accompanied by the fee provided in this ordinance, which fee shall be deposited with the City Treasurer if the license is granted, and returned to the applicant if the application is denied.
3. **FEES FOR LICENSE:** The license fee shall be \$25.00 for every individual proposing to conduct door-to-door solicitations. The business license application shall be accompanied by the appropriate fee, which shall be deposited with the City Treasurer. Said fee shall be returned if the license is not approved.
4. **LICENSE FEE NOT TRANSFERABLE:** All licenses issued under this ordinance shall not be transferable to another person or to any other location.
5. **EXPIRATION OF LICENSE:** All licenses issued under this chapter shall expire thirty (30) days after the date of issuance thereof.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.030 Grounds For Denial

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A certificate of registration shall not be issued in any of the following circumstances:

1. When the applicant has falsified information on the application;
2. When the applicant is a person against whom a judgment based upon fraud, deceit, misrepresentation, false statements, or dishonesty has been entered within five (5) years of the date of application;
3. When the applicant has, within the past five (5) years, been enjoined by any court, or is the subject of an administrative order issued in this or another state, if the injunction or order includes a finding or admission of fraud, material misrepresentation, or if the injunction or order was based on a finding of lack of integrity or truthfulness;
4. When the applicant has been convicted of any felony, or a misdemeanor involved fraud, deceit, misrepresentation, false statements, or dishonesty, within five (5) years of the date of application;
5. When the applicant has been criminally convicted of violating any of Utah Code Annotated section 76-5-401, 7-5-401.1, 76-5-401.2, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-405, 76-5-412, 76-5-413, 76-5a-3, 76-9-702, 76-9-702.5, or 76-9-702.7, or the corresponding laws of another state; or is otherwise subject to registration as a sex offender under Utah law or the corresponding law of another state;
6. When the applicant has been denied a certificate of registration under this ordinance, as amended, within the year preceding the date of application, unless the applicant has corrected the deficiency on which the previous application was based;
7. When the applicant has had a certificate of registration under this ordinance, as amended, revoked within the year preceding the date of application, unless the applicant has corrected the reason for which the certificate was revoked;
8. When an applicant's certificate of registration has been revoked within the year preceding the date of application for violation of the non-transferability provision of this ordinance as amended;
9. When the applicant has failed to supply any of the documents or information listed in this section, or has failed to pay any of the fees set by the city in accordance with this ordinance.
10. When the applicant has been convicted of a violation of this ordinance, as amended, within one year preceding the date of application.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.040 Required Signatures

All applications for Solicitors, Canvassers, Peddlers and Itinerant Merchants shall be referred to the chief of Police and Uintah County Sheriff for investigation and report as to the following:

1. Past business practices and history;
2. Verification of references;
3. Criminal record, if any
4. Any other area which the chief of police feels is directly related to the issuing of the license.
5. After receipt of the application, the chief shall have ten (10) days to make said report to the city treasurer, who shall then report the findings to the city council.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.050 City Council Actions

1. Upon receipt of the report from the City Treasurer the Chief of Police and the Sheriff, the Council shall act upon the application at its next regular meeting.
2. The City Council shall approve the application unless investigation discloses tangible evidence that the conduct of the applicant would pose a threat to the public health, safety, morals or general welfare of the community.
3. Tangible evidence of any one of the following shall be considered valid reason for denial of business license:
 - a. Has been convicted of a crime of moral turpitude;
 - b. Has made willful misstatements or has falsified the application or any other materials requested by the City as part of the application process;
 - c. Has committed prior violations of ordinances pertaining to itinerant merchants and the like;
 - d. Has committed prior fraudulent acts;
 - e. Has a record of continual breaches of solicited contracts;
 - f. Has a demonstrated record of unsatisfactory moral character.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.060 Appeal

Any person aggrieved by the action of the Police Department or Sheriff's office, or the City Recorder in the denial of a license issued pursuant to this ordinance, or by the action of the City Council, may file an appeal. Such appeal shall be taken by filing with the City Council within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address or address on the business application, a written statement setting forth fully the grounds for the appeal. A time and place for the hearing on such appeal and notice of such hearing shall be set and given to the applicant in the same manner as provided in the ordinance. Utah Code Annotated 9-456.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.070 Form Of Certificate And Identification Badge

Should the licensing officer determine that the applicant is entitled to a license, the license administrator shall:

1. Issue the applicant a business license certificate that shall list the name of the 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 license administrator and shall be carried by the solicitor at all times.
2. Each solicitor shall be required to wear an identification badge provided by the applicant, company or responsible entity. Such badge shall be worn at all times while the solicitor is

engaged in soliciting. The identification badge shall contain:

- a. The name of the solicitor
- b. Address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity as provided
- c. A recent photograph of the registered solicitor
- d. The date on which the certificate expires

3. All badges are and remain the property of Ballard City.

4. By issuing a certificate of registration, the City does not guarantee the accuracy of any representation contained in the application for registration or the certificate of registration, nor does it warrant that any statement made by the registered solicitor is truthful. The City makes no certification as to the worthiness of any organization, its products or services, on whose behalf a solicitation is made, nor as to the moral character of the registered solicitor.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.080 Deceptive Soliciting Practices Prohibited

1. No solicitor shall make any materially false or fraudulent statement in the course of soliciting. No solicitor shall fail to state a material fact necessary to make statements, in the context of the circumstances under which they are made, not misleading.
2. A solicitor shall immediately disclose to the resident at the beginning of any face to face solicitation, either verbally or by means of a writing to be handed to the resident:
 - a. The name of the solicitor
 - b. The name and address of the entity with whom the solicitor is associated or for which the solicitor is soliciting
 - c. The purpose of the solicitor's contact with the resident.
3. No solicitor shall use a fictitious name, an alias, or any name other than his or her legal name.
4. No solicitor shall represent directly or by implication that the City endorses the solicitation, or that the granting of a certificate of registration implies endorsement by the City of the solicitor or his or her product or service.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.090 "No Soliciting" Notices

1. Any resident may give notice of his or her unwillingness to listen to solicitations or receive solicitors by displaying at his or her residence a placard or sign no smaller than sixteen (16) square inches stating "No Soliciting", "No Solicitors", "No Trespassing" or words of similar import. Such placard or sign 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 a "No Soliciting" or similar sign or placard at the door of the residence or at the entrance to the building or structure that houses the residence shall constitute notice to any

solicitor that the resident is unwilling to listen to solicitations.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.100 Certain Solicitations Prohibited

1. It shall be a violation of this ordinance for any solicitor to attempt to solicit at a residence at or on which has been posted a "No Soliciting" sign or placard in accordance with this ordinance. All solicitors are under the legal obligation to affirmatively check each residence for any such sign or placard. If such sign or placard is posted, a solicitor shall desist from any efforts to solicit at the residence and shall immediately depart therefrom.
2. It is a violation of this ordinance for any solicitor 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 bear a "No Soliciting" or similar sign or placard. It is a violation of this ordinance for any solicitor through ruse, deception, or concealment of a purpose to solicit, to take action calculated to secure an audience with the occupant of a residence that has posted a "No Soliciting" or similar sign or placard.
3. It is a violation of this ordinance for any solicitor who is at any time asked by the resident to leave, to fail to immediately and peacefully depart.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.110 Time Of Day

It shall be unlawful for any person, whether a registered solicitor or not, to solicit any person at a residence before eight o'clock (8:00) A.M. or after nine o'clock (9:00) P.M. Mountain Time on business days, or before nine o'clock (9:00) A.M. or after nine o'clock (9:00) P.M. Mountain Time, on Saturdays, Sundays, or legal holidays as set forth in Utah Code Annotated, unless the solicitor has express prior permission from the resident to do so.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.120 Right To Residential Solicitation Sale

In any residential solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the solicitor shall present to the resident and obtain residents signature to a written statement which informs the resident of his or her unconditional right to cancel the sale on or before the third business day after the date of sale. Any documents memorializing the sale shall accurately set forth the date of the sale. Such notice of "buyer's right to cancel" shall be in the form required by Utah Code Annotated section 70C-5-103, or a current or amended version thereof or any state or federal law modifying or amending such provision.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.130 Penalties

Any person who engages in soliciting without complying with the requirements of this ordinance or violates any other terms or provisions of this ordinance shall be guilty of a class B misdemeanor and shall be punished by a fine of not to exceed one thousand dollars (\$1,000.00) and/ or a jail sentence of not to exceed six (6) months.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.140 Private Right Of Action

A resident who has suffered injury or damage as the result of violation of this ordinance shall have the right to bring a civil action for damages against the violator in any court of competent jurisdiction within the state of Utah.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

5.04.150 Additional Requirements

This Ordinance shall not be construed as to waive the provisions and requirements of any other ordinance of the City and the requirements and fees required herein shall be in addition to any other requirements and fees of any other ordinance of the City.

HISTORY

Adopted by Ord. [20150407-001](#) on 4/7/2015

CHAPTER 4 - SOLICITORS, CANVASSERS, PEDDLERS AND ITINERANT MERCHANTS

3-4-1: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

CANVASSER OR SOLICITOR: Any individual whether or not a resident of the city, traveling either by foot, wagon, motor vehicle or other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales; provided, that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

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

TRANSIENT MERCHANT, ITINERANT MERCHANT OR ITINERANT VENDOR: Any person, firm or corporation, whether as owner, agent, cosigner or employee, whether or not a resident of the city, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. (1978 Code § 9-452)

3-4-2: LICENSE REQUIRED:

It shall be unlawful for:

- A. Transient Merchant, Itinerant Merchant Or Vendor: A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefore in compliance with the provisions of this chapter. (1978 Code § 9-451)
- B. Peddler: Any person to engage in the business of peddler without first obtaining a license therefore as provided in this chapter.
- C. Solicitor Or Canvasser: Any solicitor or canvasser to engage in such business without first obtaining a license therefore in compliance with the provisions of this chapter. (1978 Code § 9-451; amd. 2004 Code)

3-4-3: APPLICATION FOR LICENSE:

Applicants for licenses under this chapter, shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the city recorder, which shall give the following information: (Ord. 81-5, 10-15-1981; amd. 2004 Code)

- A. The name and address of the applicant, and if the applicant is an employee or an agent of a corporation the name, address of the corporation, and the state of incorporation.
- B. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city; the local address of such individual and the permanent address of such individual.
- C. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
- D. If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons.
- E. The length of time for which the applicant desires to engage in business within the municipality.
- F. The place or places within the municipality where the applicant proposes to carry on his or her business.
- G. A list of the other municipalities in which the applicant has engaged in business within the six (6) month period preceding the date of the application.
- H. A photograph of the applicant, taken within six (6) months immediately prior to the date of filing the application, which photograph shall be two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishing manner.
- I. A statement as to whether or not the applicant, or any of his employees, have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.
- J. If the applicant desires to sell fresh vegetables, fruits, meats, or other foodstuffs, a statement by a reputable physician of the state, dated not more than ten (10) days prior to submission of the applicant, certifying the applicant to be free of infectious, contagious or communicable diseases.
- K. If the applicant is employed by another person, firm, or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the state.
- L. Attach to their application the following: two (2) letters of recommendation from any person residing in or doing business in the city, certifying the applicant's good moral character and business responsibility, or, in lieu of such letters, other evidence which may be used by the city recorder to satisfy the city recorder's duties under this title; credentials from the person, if any, for which the applicant proposed to do business, authorizing the applicant to act as such representative.
- M. Upon receipt of the application, the city recorder shall cause a set of applicant's fingerprints to be taken and attached to the application; the recorder shall also cause a picture to be taken and to be attached to the application.
- N. Applications for itinerant merchants and solicitors shall be accompanied by the fee provided in this chapter, which fee shall be deposited with the city treasurer if the license is granted, and returned to the applicant if the application is denied. (Ord. 81-5, 10-15-1981)

3-4-4: FEES:

- A. Established: The license fee which shall be charged by the city recorder for any license issued pursuant to this chapter shall be as established by resolution of the city council.
- B. Interstate Commerce: None of the license fees provided for by this section shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license fee is believed by a licensee or applicant for license to place an undue burden upon such interstate commerce, the licensee or applicant may apply to the mayor for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such interstate commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the mayor may deem necessary in order to determine the extent,

if any, of such undue burden on such interstate commerce. The mayor shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fee fixed by this section is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the city council a license fee for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the city council is satisfied that such license fee is the amount that the applicant should pay, it shall fix the license fee in such amount. If the regular license fee has already been paid, the city council shall order a refund of the amount over and above the fee fixed by the city council. In fixing the fee to be charged, the mayor shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature. (1978 Code § 9-455; amd. 2004 Code)

3-4-5: EXPIRATION OF LICENSE:

All licenses issued pursuant to this chapter shall expire on the date specified on the license. (1978 Code § 9-456; amd. 2004 Code)

3-4-6: REVOCATION OF LICENSE:

A. Notice Of Hearing: Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address or at the address shown on his application. The hearing and notice shall in all other aspects substantially comply with title 1, chapter 8 of this code. (1978 Code § 9-456)

B. Causes For Revocation: Licenses issued pursuant to this chapter may be revoked by the sheriff's department or the city recorder, after notice and hearing, for any of the following causes:

1. Fraud, misrepresentation or a false statement contained in the application for the license.
2. Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor, canvasser, peddler or itinerant merchant.
3. Any violation of this chapter.
4. Conviction of any crime or misdemeanor involving moral turpitude.
5. Conducting the business of a solicitor, canvasser, peddler or itinerant merchant in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public. (1978 Code § 9-456; amd. 2004 Code)

3-4-7: APPEAL:

Any person aggrieved by the action of the sheriff's department or the city recorder in the denial of a license issued pursuant to this chapter, or by the action of the city council, may file an appeal. Such appeal shall be taken by filing with the city council within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address or address on the business application, a written statement setting forth fully the grounds for the appeal. A time and place for the hearing on such appeal and notice of such hearing shall be set and given to the applicant in the same manner as provided in section [3-4-6](#) of this chapter. (1978 Code § 9-456; amd. 2004 Code)

3-4-8: ADDITIONAL REQUIREMENTS:

This chapter shall not be construed so as to waive the provisions and requirements of any other ordinance of the city and the requirements and fees required herein shall be in addition to any other requirements and fees of any other ordinance of the city. (1978 Code § 9-457)

3-4-9: EXCEPTIONS:

The provisions of this chapter shall not apply to any individual who is, at the time he is engaged in any activity which would otherwise require licensing by this chapter, engaged in an activity which is authorized by any church or charity which has a permanent structure located within the state, provided such church or charity has had such permanent structure for at least six (6) months prior to the date when the individuals engaged in the activity would otherwise require licensing by this chapter. (1978 Code § 9-450)

