

ORDINANCE NO. 0-2025-0012

AN ORDINANCE OF THE OREM CITY COUNCIL AMENDING VARIOUS
SECTIONS OF CHAPTER 12. LICENSES AND BUSINESS REGULATIONS

WHEREAS, the City of Orem has an interest in protecting the public health, safety, and welfare of its residents; and

WHEREAS, a clear and fair process for the regulation of business activities is essential to the economic vitality and public trust within the community; and

WHEREAS, the City seeks to establish a more robust and transparent administrative procedure that ensures due process for all business license applicants and holders; and

WHEREAS, this process will provide applicants and license holders with a formal opportunity to be heard before an impartial body regarding adverse licensing decisions; and

WHEREAS, the amendments herein are intended to create a fair and equitable framework for all parties, consistent with federal and Utah state laws; and

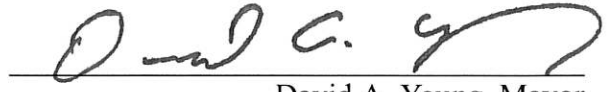
WHEREAS, the City Council finds the proposed enactment to be in the best interest of the City and necessary to protect and preserve the welfare and safety of residents in general; and

WHEREAS, the matter having been submitted and the City Council having fully considered the request as it relates to the health, safety, and general welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OREM, UTAH, AS FOLLOWS:

1. The City Council hereby amends various sections of Chapter 12. Licenses and Business Regulations of the Orem City Code, as shown in Exhibit "A" which is attached hereto and incorporated herein by reference.
2. If any part of this ordinance shall be declared invalid, such decision shall not affect the validity of the remainder of this ordinance.
3. All other ordinances, policies, and resolutions in conflict herewith are hereby repealed.
4. This ordinance shall take effect immediately upon passage and publication.

PASSED and APPROVED this 9 day of September, 2025.


David A. Young, Mayor

ATTEST:


Teresa McKittrick, City Recorder

COUNCILMEMBER	YES	NO	ABSTAIN
David A. Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jenn Gale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Killpack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jeff Lambson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Macdonald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LaNae Millett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Spencer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



EXHIBIT "A"

Article 12-1. Interpretation

12-1-2. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning set forth herein:

Antique shall mean any older or archaic item indicative of an older culture and having special value because of its age.

Antique dealer shall mean any person engaged in the business of purchasing and selling antiques.

Auction shall mean a public sale in which property or items of merchandise are sold to the highest bidder, and shall mean the place where an auction is conducted.

Auctioneer shall mean a person who conducts an auction.

Bond shall mean a financial guarantee of cash by a business license applicant or a corporate surety bond by a bonding company licensed in the State of Utah.

Bullion shall mean any item of or containing gold, silver, platinum or palladium in any form or shape other than those excepted herein. It shall include, but not be limited to (1) South African krugerrands, Canadian maple leaves, Mexican gold coins, and Austrian and Hungarian coronas; (2) gold or silver coins originally minted or manufactured as legal tender in their country of origin, but which, because of their physical condition have little or no numismatic value and which are bought, sold or exchanged based on the value of the gold or silver they contain and are commonly known as "junk silver or gold" or 90% U.S. silver coins; (3) any bar, ingot, medallion or coin which identifies the manufacturer, states the degree or percentage of purity, states the weight of the item, and has a purity of at least eighty percent (80%), i.e. the item is composed of or contains at least eighty (80) parts of gold, silver, platinum or palladium to a maximum of twenty (20) parts of any other metal(s). Bullion shall not include numismatic coins as defined herein, nor sterling silver flatware or utensils, nor jewelry containing gold, silver, platinum or palladium, nor any other item qualifying as scrap metal as defined herein.

Business shall mean any occupation or enterprise involved in the manufacture or sale of products or goods at retail or wholesale, or the rendering of service to or for another person for compensation. It shall not include the act of employees rendering service to employers.

Business License Administrator shall mean a City employee who oversees the administration of the business licensing system. Under the supervision of the Community Development Director, this individual manages the licensing process.

Contractor shall mean any person who, for a fixed sum, price, fee, percentage or other compensation, other than wages, undertakes with another to improve any building, highway, road, railroad, excavation or other structure, project, development or improvement of any kind, other than to personal property or

any part thereof; provided, that the term "contractor" as used in this Chapter shall include anyone who builds more than one structure on his own property during any one year for the purpose of sale and shall include subcontractor, but shall not include anyone who merely furnished materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractor as herein defined.

Dealer shall mean any secondhand dealer, secondhand precious metal dealer, junk dealer or antique dealer as defined herein.

Director shall mean the Director of the ~~Finance Department~~ **Community Development** or his/her designee.

(Ord. No. O-2018-0028, amended 10/9/2018; Ord. No. O-2021-0003, Amended 1.12.2021)

Effective on: 10/9/2018

Employee shall mean an operator, owner or manager of a place of business; any person employed in any capacity of the business, whether part-time or full-time; and any salespersons, agents or independent contractors engaged in the operation of a place of business in any capacity.

Home Occupation shall mean business carried out in a residential dwelling in accordance with the provisions of the Zoning Ordinance of the City.

Junk dealer shall mean any person who engages in buying or selling old metals, glass, rags, rubber, paper, or other junk from a fixed place of business.

License shall mean a certificate or document issued by the City evidencing permission or authority of its named holder to carry on a particular business.

Licensee shall mean the person to whom a license has been issued pursuant to the provisions of this chapter.

Mobile vendor shall mean any person who conducts the business of selling food products from a moving vehicle or from a vehicle which continuously moves from one location to another.

Number of employees shall mean the average number of employees engaged in business at the place of business each regular working day during the preceding calendar year, including full- and part-time employees.

Numismatic coin shall mean piece of metal money issued by any government as legal tender in the country of its origin, including commemorative coins, mint sets and proof sets, rare coins, U.S. silver dollars, and any other such coin that has value for collection purposes over and above any value it may have for its precious metal content. Numismatic coins shall not include any item defined herein as bullion or manufactured primarily for transfer as bullion.

Pawnbroker shall mean any person engaged in the business of lending money on deposit or pledges of personal property or other valuable thing, other than securities or printed evidence of indebtedness, or in the business of purchasing personal property or other valuable things, and selling or agreeing to sell the same back to the seller at a price other than the original price of the purchase, or who sells unredeemed pledges with or without the contemporary sales of new merchandise.

Person shall mean any individual or natural person, receiver, assignee, trustee in bankruptcy, trust, firm, partnership, joint venture, corporation, club, company, business trust, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

Place of business shall mean a location from which the licensee engages in business.

Pledgor shall mean a person pledging or delivering goods in pledge to a pawnbroker.

Public dance shall mean any dance to which admission can be obtained by paying a fee, or by purchasing a ticket or token in exchange for the caring for clothing or other property at such dance, or by paying a fee for music from a music record vending machine or music from any number of musicians personally present and playing in the presence of those in attendance.

Scrap metal shall mean metal which is purchased for refining and shall include such items as gold and silver jewelry, dental gold and sterling silver.

Secondhand dealer shall mean any person who keeps a store, office, or place of business for the purchase, barter or exchange or sale of any secondhand merchandise of value, or who engages in the business of dealing in secondhand goods. For the purpose of this chapter, a "secondhand dealer" shall not be meant to include any person who deals in the purchase, barter, exchange, or sale of used motor vehicles and trailers.

Secondhand precious metal dealer shall mean any person who engages in the purchasing, bartering, exchanging, or selling of gold, silver, platinum or other precious metal in any form or secondhand articles containing any of such metals.

Services shall mean any act which is performed by one individual for or on behalf of another with payment expected for the act performed.

Temporary business shall mean a business that is temporarily located on a site which has been approved by the City for a specified period of time.

Transient merchant shall mean any person who offers for sale at wholesale or retail any goods, wares, or merchandise in or from any stall, tent, temporary structure, railroad car, motor vehicle, field, or other similar place. It shall not include mobile vendors as defined herein nor any business licensed as a temporary business nor any activity which is part of a City-approved festival, display or show.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Amended 02/12/2008; Ord. No. O-2012-0010, Amended 04/10/2012)

12-3-1. Application.

- A. An applicant for a business license shall submit to the ~~Finance Department~~ **Community Development Department** a completed application along with all fees and any other information, including appropriate registration numbers, reasonably required by the City.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998; Ord. No. O-2012-0010, Amended 04/10/2012; Ord. No. O-2018-0028, Amended 10/9/2018)

- B. The application form shall be provided by the City and shall contain, but not be limited to the following information: business name, address, mailing address, and phone; owner's name,

address, home phone number, and date of birth. A copy of a photo identification such as a driver's license or passport must also be included in the application. If the applicant is a corporation or a partnership, the information required herein shall be provided with respect to at least one officer of a corporation or member of a partnership. The application shall also include the name, address, and phone number of the registered agent for any corporation or licensee.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998; Ord. No. O-2012-0010, Amended 04/10/2012; Ord. No. O-2013-0024, Amended 10/08/2013; Ord. No. O-2021-0003, Amended 1/12/2021)

Effective on: 10/9/2018

12-3-3. Issuance of license.

The City shall issue the business license applied for, provided the following requirements are met:

- A. The applicant has completed and filed with the City the business license application provided by the City;

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998)

- B. The applicant has paid the fee in an amount determined by resolution of the City Council;

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998)

- C. The applicant has complied with the requirements of Article V of this Chapter, if applicable to the particular business for which the application is made;

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998)

- D. The business is a permitted use in the zone in which the business is locating, according to Appendix A of the Orem City Code;

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998; Ord. No. O-2012-0010, Amended 04/10/2012)

- E. The place of business has been inspected by the City's building and fire inspectors and complies with all applicable building, fire and health codes; and

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998)

- F. The business is not prohibited by any federal, state or local law.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998)

- G. The applicant has registered the name of the business with the Utah Division of Corporations and Commercial Code.

(Ord. No. O-2013-0024, Enacted 10/08/2013)

12-3-4. Appeal.

If a license is denied for noncompliance with the requirements set forth in Section 12-3-3, the applicant may appeal to the ~~City Manager or his designee~~ Administrative Law Judge, as appointed in Article 11-3 of the Orem City Code, provided ~~he~~ the applicant does so ~~do so~~ in writing within ten businessworking (10) days of the denial. The procedures for any denial appeal shall be the same as those governing a business license revocation or suspension as set forth in Sections 12-4-3 and 12-4-4 of the Orem City Code.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998)

12-3-5. Duration of licenses.

Except for licenses that are time limited as issued or are earlier revoked, all licenses expire one year from the date of issuance on the last day of that month and must be renewed annually to continue to operate the business. A licensee that continues to engage in regulated activities on an expired license is subject to criminal prosecution, or other civil or administrative enforcement action, for operating without a business license.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. O-98-0005, Amended, 01/27/1998; Ord. No. O-2017-0021, Amended, 06/27/2017)

12-4-1. Powers and duties of police.

- A. All police officers of the City are hereby appointed inspectors of licenses and are empowered and required in the performance of their duties to examine all places of business and persons who are required to have a license to see that such licenses are in fact valid and that they are posted in a conspicuous place within the place of business or displayed or carried as required. Police officers shall have and exercise the power:
1. To enter free of charge upon a showing of proper identification, at any time, any place of business for which a license is required; to demand the exhibition of a current license by any person engaged or employed in the conduct of such business; and, if such person shall then and there fail to exhibit such license, such person shall be liable for the penalties provided for violation of this Chapter. Officers shall also have the authority to require any solicitor to display his license or identification card upon demand.
 2. To make arrests for the violation of any provisions of this Chapter.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-98-0005, Amended, 01/27/98)

- B. In addition to sworn police officers, any employee of the Police Department, the Fire Department, the Community Development Department, or the Finance Department shall have the powers set forth in subparagraph (A)(1) above.

12-4-2. Inspections for code compliance.

Existing places of business licensed within the City shall be inspected periodically by the Fire Department for compliance with the fire code. They may also be inspected by the ~~Finance~~ Community Development Department for compliance with the building code in cases where any structural change may have been made to the business premises since a business license was last issued or renewed or where the inspection for fire code compliance reveals a possible building code violation. Written notice shall be given by the Director to a licensee upon the finding of any code infractions, which notice shall provide for a reasonable period, not to exceed sixty (60) days, in which to correct such infractions, the failure of which may result in the revocation of the license by the City Manager and other appropriate legal proceedings. The same procedure shall be followed if a business is found to be in violation of any health code upon inspection by any governmental entity other than the City.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-98-0005, Amended, 01/27/98; Ord. No. O-2017-0005, Amended 02/28/2017; Ord. No. O-2018-0028, Amended 10/9/2018; Ord. No. O-2019-0028, Amended 9/17/19)

Effective on: 10/9/2018

12-4-3. **Suspension or Revocation of License.**

A. **Grounds for Action.**

Any license, issued pursuant to the provisions of this Chapter by the Business License Administrator, under the supervision of the Community Development Director, may be suspended or revoked for the violation by the licensee (including its agents, employees, associates, subcontractors, and any other individuals acting under the Licensee's control, guidance, supervision, or direction) pursuant to this Chapter. In addition to any other grounds of suspension or revocation, action may be based on any of the following violations, but not limited to, which occurred in conjunction with the operation of a licensed business:

1. A violation of or a conviction for violating any ordinance regulating or governing the business under which the license was granted;
2. A violation of or conviction for violating any federal, state, county, or local law(s) which is required for licensure or which affects the health, welfare, or safety of its residents including, but not limited to, a public nuisance as defined in Article 11-1 of the Orem City Code;
3. A violation of or conviction for violating an ordinance which resulted from the operation of the business(es);
4. Any material misrepresentation or fraud perpetrated on any governmental entity through an application for, or operation of the business;
5. Obtaining or renewing, or aiding another in obtaining or renewing, a license by fraud, deceit or misrepresentation;
6. Failing to obtain or maintain any, or all, required licensures to operate the business;
7. Failing to pay any fees required by this title or other City ordinances;

8. Failing to pay any required taxes, including sales tax, as required by federal, state, and local laws;
9. Refusing to permit authorized officers to make inspection, or interfering with such officers while in the performance of their duties; or
10. Intentionally, Knowingly, Recklessly, or Negligently allowing illegal activities to occur on any place of business in which the licensee has interest.

B. Notice.

~~and following a full and complete hearing as described in Section 12-4-4 of this Chapter. Notification of a business license revocation shall be sent by the Business License Office Director to the licensee by certified mail.~~

Upon suspension, revocation, or denial the Business License Administrator shall give notice of such action to the license holder or applicant, as the case may be, in writing stating the action they have taken and the reasons for it. Such notice shall contain a warning that the action shall become final and effective within ten (10) business days, unless such action is a threat to the public health, safety, or welfare in which case the action shall be effective immediately upon issuance of such notice. Service of notice shall be deemed effective upon: (i) receipt of mailing, certified mail postage pre-paid, to the licensee/applicant's physical address listed on the business license/application; (ii) personal service upon the licensee/applicant; or (iii) if sent to the electronic mailing address provided to the Business License Administrator in the license application.

C. Written Request for Appeal.

Any person receiving such notice may file an appeal. Any appeal must be filed with the City Recorder, in writing, within ten (10) business days from the date of service. Upon receipt of such request the City Recorder shall schedule a hearing in accordance with the procedures as described in Section 12-4-4 of this Chapter.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-98-0005, Amended, 01/27/98; Ord. No. O-2017-0005, Amended 02/28/2017)

12-4-4. Hearing.

- A. Parties Entitled to Appeal. Any licensee adversely affected or aggrieved by the decision of the Business License Administrator may appeal the decision to the Administrative Law Judge, as appointed in Article 11-3 of the Orem City Code.
1. Time to File Appeal. The Administrative Law Judge may only consider appeals properly filed pursuant to this section within ten (10) business days of the service of the Notice of the Business License Administrator's decision.
 2. Written Appeal Required. Appellants shall file a request for appeal in writing with the City Recorder. The Administrative Law Judge may only consider an appeal if the Appellant submitted complete and required information within the time period provided

by this section. Required information includes the payment of applicable fees and a written statement that identifies the alleged error that provides the grounds for appeal.

3. Notice of Hearing. After receiving a request for appeal, the City Recorder shall forward the request for appeal to the Administrative Law Judge who shall fix a reasonable time and place for a meeting to hear the appeal, and the City Recorder shall notify the parties of the time and place of the appeal hearing.
4. Response and Representation. Prior to the appeal hearing, the parties may submit to the City Recorder additional supporting documentation and information for consideration by the Administrative Law Judge. The City Recorder shall ensure that the parties receive information submitted. The parties may be represented by legal counsel.
- B. Hearing. The Administrative Law Judge, as appointed in Article 11-3 of the Orem City Code~~City Manager~~ shall hear all appeals regarding a Business License Administrator's decision to ~~and determine all suspensions, revoke and revoke~~ or deny any business licenses or applications~~s. No license shall be revoked or suspended until a show cause hearing has been held. Written notice of such hearing shall be served at least ten (10) working days prior to the date thereof upon the licensee or his agent. Such notice shall state the grounds of complaint against the licensee and the time and place where the hearing shall be held. The licensee shall have the right to appear and respond to any allegations made and to present reasons why the license should not be suspended or revoked.~~
 1. The Administrative Law Judge shall conduct a hearing, pursuant to the procedures outlined in Article 11-3 Administrative Hearings.
 2. In addition to the Article 11-3 procedures, these appeal hearings shall be considered de novo reviews of the Business License Administrator's decision. These hearings shall be conducted informally. Witnesses may be sworn, although it is not necessary. Formal rules of evidence and court procedure shall not apply. Because the hearings are administrative in nature, hearsay is admissible, but evidence must have some probative weight and reliability to be admitted. The standard of proof shall be a preponderance of the evidence.
 3. The City shall bear the burden of proof to establish the grounds for suspension, revocation, or denial of a business license or application.
 4. In particular, the Administrative Law Judge shall consider the information provided, and make a decision that reverses or affirms, in whole or part, the decision being appealed.
 5. The Administrative Law Judge shall issue a written order, containing the findings of fact, conclusions of law, and the final decision.
 6. The Administrative Law Judge's decision shall be final.
- C. Appeal of Administrative Law Judge's Decision. The Administrative Law Judge's final decision may be appealed to the district court within (30) days from the date on which the license appeal authority's written decision is issued.

(Ord. No. 661, Revised, 04/10/90; Ord. No. O-98-0005, Amended, 01/27/98)

- B. ~~Show cause hearings shall be conducted informally. Witnesses may be sworn, although it is not necessary. Formal rules of evidence and court procedure shall not apply. Because the hearings are administrative in nature, hearsay is admissible, but evidence must have some probative weight and reliability to be admitted. The standard of proof shall be a preponderance of the evidence.~~

~~(Ord. No. 661, Revised, 04/10/90; Ord. No. O-98-0005, Amended, 01/27/98)~~

Article 12-5. Requirements for Specific Occupations

12-5-7. Public Dances.

- A. **Conditional use permit.** It shall be unlawful to sponsor or hold a public dance without having a license therefor. Before being issued a business license to hold public dances, each applicant shall first apply for and receive a conditional use permit from the City Council. The conditional use permit requirement shall not apply, however, to persons or organizations sponsoring a maximum of one public dance every three (3) months, but such persons or organizations shall still be required to obtain a license for each dance and all the remaining provisions of this section shall apply. Licenses shall only be issued for those dances to be held in a zone where public dancing is a conditional use. Dances sponsored by organizations exempt under Section 12-2-6 or held at the Orem Fitness Center shall be exempt from both the licensing and the conditional use permit requirements.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8)

- B. **Review of conditional use permit.** Any conditional use permit granted for the purpose of holding public dances shall be reviewed by the City Council on an annual basis for the purposes of determining if there have been any violations of this section and if the permit should be continued.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8)

- C. **License application; qualifications of applicant.** The application for a dance license shall be upon a form furnished by the City. The application form shall require information relative to the location of the dance premises and the applicant's age, citizenship, moral character and reputation, and felony or misdemeanor convictions, if any, involving moral turpitude. If the applicant is a partnership, association, or corporation, the same information shall be obtained

with respect to each partner, association member or corporate officer and director, although the application need only be signed by a single partner, member, or officer. Each individual licensee must be over the age of twenty-one (21) years, of good moral character and a citizen of the United States. No license shall be granted to any applicant who has been convicted of a felony or misdemeanor involving moral turpitude. If the applicant is a partnership, association, or corporation, each partner, association member, or corporate officer or director shall meet all of the foregoing qualifications as if such applicant were an individual. All applications shall be referred to the Police Department for a background investigation to determine the qualification of the applicant under the provisions of this subsection.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8; Ord. No. O-2017-0005, Amended 02/28/2017)

- D. **Inspection of dance location.** Before a license is issued, each location for a public dance shall be inspected by the City Fire Marshall, the Chief Building Official, and the County Board of Health for violations of the building, fire, or health codes. Any such violations shall be corrected prior to the issuance of a license. In the case of a dance to be held outdoors, however, the location need only be inspected by an officer of the Police Department to determine if it is a reasonably safe location for a dance, taking into account traffic, lighting, and other neighborhood considerations.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8; Ord. No. O-2017-0005, Amended 02/28/2017)

- E. **Denial of license.** In cases of an application for a single dance where no conditional use permit is required, the Director may deny the license upon the recommendation of the Chief of Police. The Police Chief may only recommend denial if he:

1. Finds that the applicant does not qualify under subsection (C) above.
2. Finds, after inspection pursuant to subsection (D) above, there is reasonable cause to believe that the proposed location would be unsafe.
3. Has reasonable cause to believe that adequate security measures either could not or would not be taken by the applicant in order to insure compliance with subsection (G) below.
4. Finds, based on the proposed location and type of sound system to be used, the anticipated noise level would unreasonably interfere with the peaceful enjoyment of adjoining properties by the tenants or owners thereof. In the event that the Director denies a license pursuant to this subsection, the applicant may appeal the decision ~~as outlined in 12-3-4 of the Orem City Code to the City Manager by filing a notice of appeal with the Director and paying a filing fee in an amount established by City Council resolution within ten (10) working days of the denial.~~

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8; Ord. No. O-2017-0005, Amended 02/28/2017)

- F. **Security at public dances.** A licensee shall have security personnel at each public dance in order to ensure that there is no violation of subsection (G) below during the conduct of the dance. The number of security guards required shall be determined by the City Council as part of the conditional use permit process if the licensee or applicant is required by this section to obtain a conditional use permit, and otherwise by the Chief of Police. Factors to be considered shall be the location of the proposed dance, the number of people expected at the dance, the type of premises where the dance will be held and the age group of the expected participants.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8; Ord. No. O-2017-0005, Amended 02/28/2017)

- G. **Prohibited conduct.** It shall be unlawful for any person to engage or for a licensee to permit any person to engage in the following conduct during a public dance:

1. To bring, possess or consume beer or other alcoholic beverages of any kind in or upon the licensed premises.
2. To bring, possess, use or consume controlled substances, as the same are defined in the Utah Controlled Substances Act, in or upon the licensed premises.
3. To smoke in or upon the licensed premises.
4. To be intoxicated, boisterous, or disorderly in or upon the licensed premises.
5. To commit any indecent, gross, violent or vulgar act in or upon the licensed premises.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8)

- H. **Illumination.** All dance areas, including any adjacent booth, blind, stall or seating area, shall be kept illuminated so that any occupants thereof may be clearly observed. Any adjacent booths, blinds, stalls or seating areas shall be visible and open to full view from the entrance to the dance floor.

(Ord. No. 661, Revised, 04/10/90; Ord. No. 690, Renumbered, 07/23/91, 12-5-7; Ord. No. O-98-0005, Ren&Amd, 01/27/98, 12-5-8)

- I. **Hours; age of participants.** The hours of operation and the age of participants allowed on the premises of a public dance shall be established by the City in conjunction with the granting of a conditional use permit where such permit is required. Where no conditional use permit is required, no dancing shall be permitted in or upon the licensed premises between the hours of 1:00 a.m. and 8:00 a.m. of any day except New Year's Day, when the prohibition shall be between the hours of 2:00 a.m. and 8:00 a.m. The minimum age of participants shall be sixteen (16) years, unless accompanied by an adult.

J. **Minimum On-site Parking.** The minimum number of on-site parking stalls shall be 300.

(Ord. No. O-06-0014, Enacted 7/25/2006)

12-5-8. Solicitors.

A. **Purpose.** The purpose of this Section is to protect city residents from unreasonable intrusions upon residential privacy, consumer fraud, and deceptive, high-pressure, factually unbalanced, or otherwise unfair consumer sales practices, in a manner consistent with the constitutional rights of residential commercial solicitors to communicate their messages to willing residential listeners.

1. Commercial residential solicitation generally represents a greater intrusion upon residential privacy than political, religious, or other noncommercial door-to-door solicitation involving the dissemination of ideas. Commercial residential solicitation generally entails a higher incidence of consumer fraud and unfair sales practices than political, religious, or other noncommercial door-to-door solicitation involving the dissemination of ideas. Substantial numbers of city residents do not desire to listen to or otherwise receive commercial solicitations. Additionally, some residents are particularly vulnerable to consumer fraud and unfair consumer sales practices by commercial residential solicitors.
2. The Orem Police Department (hereinafter, the "Department") has investigated complaints and problems relating to residential solicitation within the City, including the following: The Department investigated fourteen complaints involving residential solicitation in 2006 and twenty-six complaints in 2007. Residents complained, among other things, about residential solicitors trespassing, surveilling residents' property, refusing to leave the complainant's property when asked, contacting residents at homes posted with a "No Solicitation" sign, selling stolen property, representing nonexistent businesses, claiming to represent a legitimate business when in fact they didn't, and using aggressive sales techniques. Based upon such investigation, the Department has concluded that commercial door-to-door solicitation within the City often involves intrusions upon residential privacy, consumer fraud, and unfair consumer sales practices.
3. The Department has found consumer fraud and deceptive, high-pressure, factually unbalanced, or otherwise unfair consumer sales practices are employed significantly less frequently in cases of charitable solicitation and solicitation occurring incident to political, religious, and other noncommercial speech entailing the dissemination of ideas.

4. The transient nature of the business of residential solicitation makes it difficult to prosecute or to obtain redress for intrusions upon residential privacy and fraudulent or otherwise unfair consumer sales practices by residential solicitors because such solicitors are typically nonresidents of the City and often leave the City immediately upon completion of their commercial solicitation of the City. Furthermore, many companies that employ residential solicitors do not conduct accurate, thorough, and timely criminal background checks on prospective solicitors.
5. Because commercial residential solicitation (a) involves the attempt to complete an economic transaction with the hearer, and (b) may include aggressive, deceptive, factually unbalanced, or otherwise unfair tactics in an effort to complete an economic transaction, commercial residential solicitation entails a heightened risk of intrusion upon residential privacy, consumer fraud, and unfair consumer sales practices, albeit by a minority of those engaged in this business. The City wishes to reassure residents to the extent reasonably possible consistent with the First Amendment that the residential commercial solicitors who work within the City have not been the subject of criminal actions, consumer protection actions, or other legal orders or actions reasonably related to the risk of such solicitors' intruding upon residential privacy or committing consumer fraud or other unfair consumer sales practices, by instituting a residential solicitation registration procedure.
6. The Council finds that the potential and actual harm to citizens from residential solicitation is real, and that the provisions hereinafter set forth will to a material degree alleviate and avoid such harm. The Council has determined that the means chosen as hereinafter stated are reasonable and are closely fitted to achieve the desired objective of protecting citizens from intrusions upon residential privacy, consumer fraud, and unfair consumer sales practices, while simultaneously preserving the rights of others to engage in speech protected by the First Amendment to the United States Constitution and relevant state constitutional provisions. The regulations adopted herein are narrowly drawn and in the judgment of the Council are not more extensive than necessary to serve and protect the interests stated.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008; Ord. No. O-2021-0024, Amended 9/28/2021)

B. Definitions. For the purposes of this Section, the following definitions shall apply:

1. **Applicant** means a person that applies for a Certificate of Registration.

2. **Application** means the form provided by the City to apply for a Certificate of Registration or the process of applying for a Certificate of Registration.
3. **Certificate of Registration** means the written authorization to engage in commercial solicitation from the ~~Finance~~ **Community Development** Department or their designee (hereinafter the "Director").

(Ord. No. O-2018-0028, Amended 10/9/2018; Ord. No. O-2021-0003, Amended 1/12/2021)

Effective on: 10/9/2018

4. **Home Solicitation Sale** means a sale of goods or services in which the seller or a person acting for him initiates contact and engages in a face-to-face solicitation of the sale at a residence of the resident and the resident's agreement or offer to purchase is there given to the solicitor or a person acting for him. Home solicitation sale shall not include a sale made between parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, or a sale made within a residence to a third person invited therein by the resident where such sale was not initiated by unsolicited contact by a nonresident of the residence.
5. **Registered Solicitor** means any person registered pursuant to this Section who has obtained a valid Certificate of Registration (or "Certificate") from the Director.
6. **Residence** means and Residential refers to any (1) living unit contained within any building or structure that is occupied by any person as a dwelling, together with the lot or other real property on which such residence is located; (2) any apartment, hospital room, nursing home room, assisted living home room, group home, or other similar location; or (3) any building or structure that houses the residence together with the lot or other real property on which such building or structure is located.
7. **Resident** means any person living in a residence.
8. **Solicit, Solicited, Soliciting or Solicitation** means any of the following activities engaged in with a resident at his or her place of residence:
 - a. Seeking to obtain orders for the sale or exchange of services, goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
 - b. Seeking to obtain prospective customers to apply for or to purchase insurance, financial services, subscriptions to publications, or publications;
 - c. Seeking to obtain contributions of money, services, or anything of value for the benefit of any person, association, organization, corporation, or program;

- d. Seeking to obtain orders or prospective customers for goods or services;
or
- e. Seeking to obtain appointments or other opportunities to engage in any
of the activities listed in subsections B(8)(a) through (d) above.

9. **Solicitor** means a person engaged in soliciting residents at their residences.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008; Ord. No. O-2012-0010, Amended 04/10/2012)

C. Unregistered solicitation prohibited.

- 1. All persons desiring to solicit within the City who are not exempt under subsection (D) below shall, prior to the commencement of solicitation, obtain from the Director a Certificate of Registration as a solicitor. The executed original of this Certificate of Registration shall be maintained by the Director, and a legible copy shall be worn by the Registered Solicitor at all times while soliciting in the City and shall be produced for inspection upon the request of any resident being solicited or any Peace Officer.
- 2. Unless a person is a Registered Solicitor and is wearing a Certificate of Registration or is exempt from registration under the provisions of this Section, it is a violation of this Section for said person to be present in or at a residence within the City for the purpose of engaging in solicitation. Violations of this subsection shall be punishable as set forth in subsection (K) below.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

D. Exemptions from registration.

- 1. The following activities are exempt from the registration requirements of subsection (E) below:
 - a. Solicitation which occurs as the result of a resident's prior and express invitation to the solicitor to come onto such resident's property. An invited solicitation shall not include the circumstance where the resident invites back a solicitor who initiated the contact with the resident at the residence. A resident's failure to post a "No Soliciting" notice in accordance with subsection (G) below shall not be construed as an exemption from registration under this section, as an invitation to solicitation by such resident, or as an expression of such resident's desire to hear or receive solicitations.

- b. Solicitation which occurs incident to political, religious, or other noncommercial door-to-door canvassing, pamphleteering, or other dissemination of ideas.
 - c. Solicitation on behalf of a charitable organization as defined by Utah Code Ann. §13-22-2(1), or an organization listed in Utah Code Ann. §13-22-8(1).
2. Any solicitor claiming an exemption under this section shall bear the burden of proving the facts forming the basis for his claim of eligibility for, or the applicability of, the exemption claimed.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, [12-5-8](#); Ord. No. O-98-0005, Ren&Amd, 01/27/1998, [12-5-9](#); Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

E. Application for Certificate of Registration, review, issuance, denial.

1. **Information and Documents Required.** The Director shall provide a standard application form to be used by an applicant in applying for a Certificate of Registration that shall request the information set forth herein. The applicant shall state upon oath or affirmation that the information is truthfully provided to the best of the applicant's knowledge and belief. The applicant shall supply the following information upon or with the application:
- a. The applicant's true, correct, and legal name, including any former names or aliases used within the last ten (10) years;
 - b. The name of any organization(s) for which the applicant will be soliciting;
 - c. The applicant's home and business address, and the address where the applicant can be contacted locally;
 - d. The names and addresses of the applicant's immediate supervisor, if any;
 - e. Proof that either the applicant, or the organization(s) for which the applicant will be soliciting, has registered with the Utah State Department of Commerce;
 - f. A sales tax number registered to the City for either the applicant or for the organization(s) for which the applicant will be soliciting;
 - g. The purpose for which soliciting will be done;
 - h. Whether the applicant is a person against whom a judgment based upon fraud, deceit, misrepresentation, false statements, or dishonesty has been entered within five years of the date of application;
 - i. Whether the applicant has, within five years of the date of application, 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;

- j. Whether the applicant has been convicted of any felony, or a misdemeanor involving fraud, deceit, misrepresentation, false statements, or dishonesty, within five years of the date of application;
 - k. Whether the applicant has been denied a Certificate of Registration under this Section within the year preceding the date of application, and whether the applicant has corrected the deficiency on which the previous application was based;
 - l. Whether the applicant has had a Certificate of Registration under this Section revoked within the year preceding the date of application and whether the applicant has corrected the reason for which the Certificate of Registration was revoked;
 - m. Whether an applicant's Certificate of Registration has been revoked within the year preceding the date of application for violation of the nontransferability provision of this Section;
 - n. Whether the applicant has been convicted of a violation of this Section within one year preceding the date of application;
 - o. The findings of a background check on the applicant conducted by the Utah Bureau of Criminal Investigations ("BCI") within the last 180 days and the results of a comparable background check from the applicant's state of permanent residency (if different) conducted within the previous 180 days. The application shall not be deemed complete until the applicant has delivered the findings of the BCI background check to the Director, and receipt of the background check by the Director shall be a condition precedent to issuance of a Certificate of Registration;
 - p. An acknowledgment that solicitation will not commence until the solicitor is in full compliance with this Section.
2. **Incorrect or Incomplete Information.** If any information contained in the application becomes incorrect or incomplete after the Certificate of Registration has issued, the applicant or Registered Solicitor shall, within 30 days after the information becomes incorrect or incomplete, correct the application, or file the complete information required herein.
3. **Fees.** The applicant shall pay an application and processing fee as set by the City from time to time; provided, however, that the fee shall not exceed reasonable administrative costs incurred by the City to process an application and maintain the related records.

4. **Grounds for Denial.** A Certificate of Registration shall not be issued in any of the following circumstances:
- a. When the applicant has falsified information on the application;
 - b. When the applicant is a person against whom a judgment based upon fraud, deceit, misrepresentation, false statements, or dishonesty has been entered within five years of the date of application;
 - c. When the applicant has, within the past five 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;
 - d. When the applicant has been convicted of any felony, or a misdemeanor involving fraud, deceit, misrepresentation, false statements, or dishonesty, within five years of the date of application;
 - e. When the applicant is an individual who is listed as a sex offender on the U.S. Department of Justice National Sex Offender Public Website (currently found at <http://www.nsopw.gov/Core/Conditions.aspx>).
 - f. When the applicant has been convicted of any felony involving violence or the threat of violence within five years of the date of the application.
 - g. When the applicant has been denied a Certificate of Registration under this Section within the year preceding the date of application, unless the applicant has corrected the deficiency on which the previous application was based;
 - h. When the applicant has had a Certificate of Registration under this Section revoked within the year preceding the date of application, unless the applicant has corrected the reason for which the Certificate of Registration was revoked;
 - i. When an applicant's Certificate of Registration has been revoked within the year preceding the date of application for violation of the nontransferability provision of this Section;
 - j. When the applicant has failed to supply any of the documents or information listed herein, or has failed to pay the fee set by the City in accordance with this Section;
 - k. When the applicant has been convicted of a violation of this Section within one year preceding the date of application.
5. **Proof of Identification Required.** Initial proof of identification can be faxed or emailed to the City along with the completed application form, provided that in-person identification is verified with one of the following prior to or at the time

of the issuance of the Certificate of Registration. No Certificate of Registration shall be issued to any applicant until the applicant submits one of the following to establish proof of identification:

- a. A valid driver license issued by any State;
- b. A valid United States Uniformed Service Identification Card;
- c. A valid passport issued by the United States;
- d. Any other official document issued by the United States or any State thereof which contains the name and photograph of the applicant.

6. **Registration Complete upon Completion of Application.** Registration shall be deemed complete when the Director has received all of the information and documents listed above and the applicant has paid the applicable fee. The Certificate of Registration shall be issued within three (3) business days following the Director's receipt of a complete application, unless one of the circumstances listed in subsection (E)(4) above applies. In the event that the Director determines that one or more of the circumstances listed in subsection (E)(4) above exists, the Director shall notify the applicant in writing within three (3) business days following the applicant's completion of registration that the application has been denied and the reason(s) therefore.

7. **Form of Certificate and Badge.**

- a. Each Certificate of Registration issued by the Director shall be numbered, shall list the name of the individual Registered Solicitor and of any organization on whose behalf the Registered Solicitor is authorized to solicit, the date on which the Certificate of Registration expires, and shall be dated and signed by the Director or his or her authorized designee.
- b. Each Registered Solicitor shall wear a badge prominently on his or her person, consisting of a copy of the Certificate of Registration issued by the City, a 1½ inch by 1½ inch (approximate) photograph of the Registered Solicitor that was taken within one year preceding the issuance of the Certificate of Registration to be supplied by the Registered Solicitor, and the name and address of any entity with which the Registered Solicitor is associated. Such badge shall be worn at all times while the Registered Solicitor is engaged in soliciting.
- c. All badges are and remain the property of the City.
- d. By issuing a Certificate of Registration, the City does not guarantee the accuracy of any representation contained in the application 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 or as to the moral character of the Registered Solicitor.

- e. The following statement shall appear on each Certificate of Registration:
"THE CITY OF OREM MAKES NO CERTIFICATION AS TO THE WORTHINESS OF ANY ORGANIZATION, ITS PRODUCTS OR SERVICES, ON WHOSE BEHALF A SOLICITATION IS MADE OR AS TO THE MORAL CHARACTER OF THE REGISTERED SOLICITOR."

8. **Duration.** A Certificate of Registration shall be valid for a period of one (1) year from the date of issuance.
9. **Nontransferability.** Certificates of Registration shall be issued only in the name of the applicant and the firm, corporation or association on whose behalf the applicant is authorized to solicit. The Certificate of Registration is nontransferable in all respects. It shall constitute a violation of this Section for a Registered Solicitor whose Certificate of Registration authorizes soliciting on behalf of a person or firm named in a Certificate of Registration to solicit on behalf of any other person or firm, organization, or association or for any purpose other than that specified in the application. Any Certificate of Registration used by a person other than the person to whom it was originally issued is void, and the City is authorized to confiscate and immediately cancel any such Certificate of Registration.
10. **Certificate Registry.** The Director shall maintain and make available for public inspection a record of every application received together with any information pertaining thereto, all Certificates of Registration issued, and all pending and denied applications, with the exception of any portion of the application received and any information pertaining thereto that qualifies as private or protected within the meaning of the Government Records Access and Management Act, Utah Code Ann. § 63-2-101 et seq. Each application shall be numbered in consecutive order and each Certificate of Registration issued shall be assigned a number exclusive to the Registered Solicitor. Each Certificate of Registration renewed shall be identified with the duplicate number of the application upon which it was initially issued. The Director shall furnish to the Director of Police Department a listing of all Certificates of Registration issued and renewed and such Director shall maintain such listing for public inspection and for identification.
11. **Revocation of Certificate.** Any Certificate of Registration issued pursuant to the provisions of this Section shall be revoked by the City if, following issuance of the Certificate of Registration, the City determines that the Registered Solicitor was convicted of a violation of this Section or committed an act or became subject to a condition that would disqualify him or her from receiving a Certificate of Registration under subsection (E)(4) above. Notice of revocation shall be

immediately given to the Registered Solicitor by personal service or certified mail to the address listed on the Application and, if applicable, to the organization for which the Registered Solicitor was soliciting. The notice shall set forth the factual basis for the revocation and, if applicable, the specific provision(s) of subsection (E)(4) above that identifies and defines the disqualifying conduct. Immediately upon the giving of such notice, the Certificate of Registration shall become void and shall remain so until the revocation is rescinded. Upon receiving notice of revocation of any Certificate of Registration, the Registered Solicitor shall forthwith return the related badge to the City.

12. **Appeal.** An applicant whose application is denied by the Director or a Registered Solicitor whose Certificate of Registration is revoked by the Director shall have the right to appeal such denial or revocation ~~as outlined in Sections 12-4-3 and 12-4-4 to the City Manager or his designee at a meeting to be held no later than twenty (20) business days following the City's receipt of the applicant's notice of appeal. The notice of appeal shall be in writing and shall be delivered either in person upon written receipt or by certified U.S. mail to the City Recorder with a copy to the Director within ten (10) business days of the applicant's or Registered Solicitor's receipt of the decision from which the appeal is taken. Such notice of appeal shall identify the applicant or Registered Solicitor, set forth the decision of the Director that is being appealed, and state the grounds for appeal. Within ten (10) business days of the meeting at which the applicant's or Registered Solicitor's appeal is heard, the City Manager or his designee shall issue a decision either affirming or reversing the actions of the Director in denying an applicant's application or revoking the Registered Solicitor's Certificate of Registration. An applicant or Registered Solicitor aggrieved by the City Manager's decision may file for relief in any court of competent jurisdiction within thirty (30) days of the City Manager's decision.~~

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, ~~12-5-8~~; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, ~~12-5-9~~; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008; Ord. No. O-2012-0010, Amended 04/10/2012; Ord. No. O-2012-0010, Amended 04/10/2012; Ord. No. O-2013-0024, Amended 10/18/2013; Ord. No. O-2021-0024, Amended 9/28/2021)

F. 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 made, 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, (i) the name of the Solicitor; (ii) the name and address of the entity with whom the Solicitor is associated or for which the Solicitor is soliciting; and (III) 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, if applicable, that the granting of a Certificate of Registration implies endorsement by the City of the Solicitor or his or her product or service.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, [12-5-8](#); Ord. No. O-98-0005, Ren&Amd, 01/27/1998, [12-5-9](#); Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

G. "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 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.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, [12-5-8](#); Ord. No. O-98-0005, Ren&Amd, 01/27/1998, [12-5-9](#); Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

H. Certain solicitations prohibited.

1. It shall be a violation of this Section 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 subsection (G) above. All Solicitors shall 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 there from.
2. It is a violation of this Section for any Solicitor to knock on the door, ring the door bell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Soliciting" or similar sign or placard. It is a violation of this Section 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 Section for any Solicitor who is at any time asked by the resident to leave, to fail to immediately and peacefully depart.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Amended 02/12/08)

I. Time of Day.

It shall be unlawful for any Solicitor, whether a Registered Solicitor or not, to solicit any person at a residence before 8:00 a.m. or after 9:00 p.m. on business days, or before 9:00 a.m. or after 9:00 p.m. on Saturdays, Sundays, or legal holidays as set forth in Utah Code Ann. § 63-13-2, unless the Solicitor has express prior permission from the resident to do so.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

J. Right to cancel 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 resident's signature on 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 §70C-5-103, or a current or amended version thereof or any State or federal law modifying or amending such provision.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

- K. Penalties.** Any person who engages in soliciting without complying with the requirements of this Section or violates any other terms or provisions of this Section shall be guilty of a class 'B' Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail term not to exceed six (6) months.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

- L. Conflicting ordinances void.** Any Ordinance or provision of the Orem City Code which conflict with the provisions of this Section is hereby repealed.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

- M. Severability.** If any provision of this Section is held by a court of competent jurisdiction to be unconstitutional or for any reason invalid, such ruling or decision shall not affect the validity of the remaining provisions, which are adopted separately and independently and shall remain in force and effect.

(Ord. No. 661, Revised, 04/10/1990; Ord. No. 690, Renumbered, 07/23/1991, 12-5-8; Ord. No. O-98-0005, Ren&Amd, 01/27/1998, 12-5-9; Ord. No. O-02-0032, Amended, 09/24/2002; Ord. No. O-08-0007, Repealed & Reenacted 02/12/2008)

12-5-13. Towing and Parking Enforcement Companies.

A. Definitions.

Abandoned Vehicle means a vehicle that is left unattended on a highway for a period in excess of forty-eight (48) hours; or on any public or private property for a period in excess of seven (7) days without express or implied consent of the owner or person in lawful possession or control of the property.

Authorized Vehicle means a motor vehicle parked on private property for which permission has been granted to park such vehicle.

Boot means a device used by a towing or parking enforcement company to temporarily immobilize or disable a motor vehicle for purposes of enforcing parking restrictions.

Nonconsensual Booting means immobilizing or otherwise disabling vehicles without the prior consent of the owner.

Nonconsensual Towing means the towing of a vehicle without the prior consent of the owner of the vehicle.

Parking Enforcement Company means a person or business entity engaged in the practice of immobilizing ("booting"), or otherwise disabling vehicles for the purpose of enforcing parking restrictions either on public streets, private property, or public parking lots restricted as to use.

Parking Enforcement Operations means the business of enforcing parking regulations for compensation within the corporate limits of the City of Orem by booting motor vehicles.

Parking Enforcement Vehicle means any vehicle that is used by a parking enforcement company in the course of parking enforcement operations.

Person means an individual, a firm, a partnership, a corporation, a company, an association, or a joint stock association or any other type of business entity or association.

Rate List means a list of certified and licensed towing companies and the rates charged for their services, maintained by the Police Department. Such list is provided to motorists who request the names of towing companies from police officers.

(Ord. No. O-2021-0024, Amended 9/28/2021)

Effective on: 4/10/1990

Rotation List means the list of certified and licensed towing companies maintained by the Police Department, whom the Police Department will call when either there is a need for the nonconsensual towing of a vehicle or when the vehicle owner has need of the services of a towing company and the vehicle owner has no preference which company is called.

Tow or Towing means to utilize any automotive vehicle to pull, load, carry or otherwise transport another automotive vehicle or automotive vehicle trailer over a public highway or road. A tow begins when the tow operator exercises any control over the vehicle, by means of a crane, hoist, tow bar, tow line, chain, or dolly.

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

Towing Company means a person or business entity engaged in the practice of towing vehicles.

Towing Operations means the business of towing motor vehicles for compensation within the corporate limits of the City of Orem, whether or not the towing extends beyond the city limits. Such business shall also include the storage of towed vehicles, pending their return to the owner thereof by the towing company, or parking enforcement company which towed such vehicle.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-2012-0009, Amended 03/27/2012; Ord No. O-2014-0037, Amended 10/28/2014)

B. Certification Required. It shall be unlawful for any person to engage in commercial towing operations within the corporate limits of the City of Orem unless the person has been certified by the Utah Department of Transportation as a towing company. The City may revoke or suspend the business license of any towing company that fails to obtain or maintain a valid state certification, or if licensed elsewhere, may suspend or revoke the right to conduct towing services in the City of Orem.

(Ord. No. O-03-0008, Enacted, 04/01/2003)

C. License and Parking Required.

1. It shall be unlawful for any person to engage in commercial towing operations or parking enforcement operations within the corporate limits of the City of Orem, unless the person operating such business has applied for and obtained a license from the City of Orem to do so. Such license shall be applied for, granted and maintained in compliance with the provisions of this Chapter.
2. A towing or parking enforcement company which maintains a current business license from Utah County or a municipality located within Utah County shall not be required to obtain a separate business license from the City of Orem. However, to conduct towing or parking enforcement activities within the City of Orem, such company shall register on forms provided by the City. All persons so registering shall comply with the provisions of this Chapter and shall keep all required information current with the City. No business license fees shall be charged persons registering pursuant to this Section. The City shall provide evidence of registration which can be carried in company vehicles as required herein.
3. Failure to comply with any provision of this Section shall constitute grounds for suspension or revocation of the business license of any company

licensed in the City of Orem, or if licensed elsewhere, shall be grounds to suspend or revoke the right to conduct parking enforcement or towing services in the City of Orem.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-2012-0009, Amended 03/27/2012)

D. License Application, Registration form. An application for a business license, or a registration form, shall be filed in writing with the ~~Finance~~ **Community Development** Department and shall specify and provide:

1. The name and address of the applicant, and if applicable, each and every officer, partner, member and registered agent of the applicant.
2. The name and location of the applicant's principal place of business;
3. A copy of the Utah Department of Transportation Tow Truck Motor Carrier certification.
4. Copies of the Utah Department of Transportation Tow Truck Operator Certifications for each employed tow truck driver and an accurate list of the names and birth dates of all other employees who will have access to vehicles in order that a background check may be completed to discover if any employee has been convicted of a felony or misdemeanor of moral turpitude within the past five (5) years. Such list of employees' names and birth dates and Tow Truck Operator Certifications must be kept current with the ~~Finance~~ **Community Development** Department. When an applicant business adds a new employee, the applicant business must report the aforementioned information to the ~~Finance~~ **Community Development** Department before allowing that employee to engage in any towing or booting related activity;
5. Evidence of compliance with the property damage insurance and surety bond requirements of this Section;
6. A current schedule of fees;
7. Copies of any contracts entered into pursuant to Orem City Code Section 19-7-5.F; and
8. For businesses applying for a business license, proof that the principal place of business is located within the corporate limits of the City of Orem.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-2010-0010, 05/11/2010; Ord. No. O-2012-0009, Amended 03/27/2012; Ord. No. O-2019-0028, Amended 9/17/19; Ord. No. O-2021-0024, Amended 09/28/2021)

E. Requirements for conducting business.

1. Persons conducting towing or parking enforcement services in the City shall do the following:

- a. Maintain a business name that is not substantially similar to the name of any of the City of Orem's departments responsible for parking enforcement and towing services;
- b. Comply with the current Utah Department of Transportation rules and regulations for tow truck operators if the company has a tow truck(s);
- c. Maintain a Department of Transportation certificate for each tow truck during the term of the license;
- d. Provide a certificate of insurance showing proof of valid property damage liability insurance issued by an insurance company authorized to do business in the State of Utah.
 - i. A certification from the insurer as to duration, kind and extent of insurance, shall be kept on file with the City of Orem business license department.
 - ii. The licensee or his insurance agent shall notify the City of Orem of any termination or change of policy. Failure to do so shall be grounds for suspension or revocation of any business license or registration issued under this Chapter.
- e. Affix permanent readable signs on the doors of any tow truck or parking enforcement vehicle listing the applicant's business name, address and telephone number;
- f. Provide a surety bond of \$1,000.00 from good and sufficient sureties to ensure continued compliance with this Chapter.
- g. Provide competent evidence that the towing company stores motor vehicles in a secure fenced area, enclosed yard or building;
- h. Ensure that all personnel operating tow trucks are carrying within the vehicle a current certification card issued by the Utah Department of Transportation and a valid Utah driver's license which authorizes operating a tow truck. Parking enforcement companies which do not provide towing services shall ensure that their personnel carry a valid Utah driver's license and a company identification card identifying the driver as an employee of the parking enforcement company;

- i. On or before December 31st of each year, towing or parking enforcement companies must file the following with the Police Department:
 - i. A current copy of the towing company's Utah Department of Transportation certification;
 - ii. A current list of names and birth dates of employees who will have access to vehicles;
 - iii. Current proof of insurance as required by Orem City Code [12-5-13](#) (E)(1)(d)
 - iv. Current proof of surety bond as required by Orem City Code [12-5-13](#) (E)(1)(f);
 - v. A current schedule of fees; and
 - vi. Copies of all written contracts entered into pursuant to Orem City Code Section [19-7-5](#)(F).
 - j. Every parking enforcement and towing company licensed or registered and providing services pursuant to this Chapter shall post in a conspicuous place upon its business premises a true copy of this Section as well as Article [19-7-1](#) et seq. of the City Code.
2. In the event of a change in ownership, management, business name, address, telephone number, or fee schedules, the licensee or company registered shall provide such information to the ~~Finance~~ **Community Development** Department within ten (10) days of such change.
 3. When renewing a business license or reapplying to be placed on the rotation list after having been removed, parking enforcement or towing companies shall submit to the ~~Finance~~ **Community Development** Department the documents listed in Orem Code [12-5-13](#)(E)(1)(i).

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-2012-0009, Amended 03/27/2012; Ord. No. O-2017-0005, Amended 02/28/2017; Ord. No. O-2019-0028, Amended 9/17/19; Ord. No. O-2021-0024, Amended 9/28/2021)

F. License Fees. The license fee for a person desiring to provide towing services and/or parking enforcement services within the City of Orem shall be set by the City Council. Applicants and registrants shall be responsible for paying for the cost of the Police Department conducting a BCI background check.

(Ord. No. O-03-0008, Enacted, 04/01/2003; Ord. No. O-2017-0005, Amended 02/28/2017)

G. Duty to Display License.

1. Every tow truck operator or parking enforcement employee shall carry upon his person while working or in the truck:
 - a. A valid Utah driver's license, which allows for operation of a tow truck (if towing services are to be performed);
 - b. Evidence of a valid license or registration issued by the City of Orem;
 - c. In the case of tow truck operators only, evidence of a personal certification card issued by the Utah Department of Transportation;
 - d. A company identification card giving the name, address and phone number of the company and identifying the operator as an employee thereof; and
 - e. All other identification required by law.

(Ord. No. O-03-0008, Enacted, 04/01/2003)

H. Investigation by Orem Department of Public Safety.

1. The Chief of Police, or the Chief of Police's designee, shall investigate each application filed pursuant to this Article to determine if the applicant and the application meet the requirements of this Article and sections [12-2-1](#) and [12-2-6](#) of the City Code. A similar background check shall be conducted for persons registering to do business under this Section.
2. Background checks may be conducted on all employees of the entity desiring to obtain a license under this section or on those desiring to conduct services within the City. This does not apply to employees who are Tow Truck Operator Certified by the Utah Department of Transportation.
3. If a background check discloses a criminal history involving a conviction of a felony or crime of moral turpitude, theft, fraud, etc. within the past five (5) years, or any current conduct that would threaten the health, welfare, safety or security of the public, a license or the right to conduct business may be denied or revoked by the Chief of Police. Any person who wishes to dispute a decision by the Chief of Police may appeal such decision to the City Manager or the City Manager's designee. Any appeal must be filed in writing with the City Recorder's office within ten (10) calendar days of the denial or revocation.
4. Annually, the Chief of Police, or the Chief of Police's designee, will review the submissions of all towing and parking enforcement companies to determine whether those companies are in compliance with this Section.

Effective on: 4/10/1990

12-5-14. Massage Establishments.

- A. **Definitions.** For the purposes of this section 12-5-14, the following terms shall have the meaning set forth below.
1. **Employee** means an operator, owner, or manager of a massage establishment and any person performing massages at or on the licensed premises of a massage establishment and also any agent or independent contractor who gives massages at a massage establishment.
 2. **Massage or Massage Therapy** means the systematic manual or mechanical manipulation of the soft tissue of the body (including by rubbing, stroking, kneading, or tapping with the hand or by instrument) for the purpose of:
 - a. promoting the therapeutic health and well-being of a client;
 - b. enhancing the circulation of the blood and lymph;
 - c. relaxing and lengthening muscles;
 - d. relieving pain;
 - e. restoring metabolic balance;
 - f. achieving homeostasis; or
 - g. other purposes.
 3. **Massage Establishment** means any place or business where massages are given for hire.
 4. **Masseur** means any person who gives massages for hire and any person who is required to obtain a license under the provisions of the Utah Massage Therapy Practice Act (Utah Code Title 58, Chapter 47B).
 5. **Specified Anatomical Areas** means the pubic region, human genitals, perineum, anal region and female breasts.
- B. **License Required.** Except as exempted under Utah Code sections 58-1-307 and 58-47b-304, it is unlawful for any person to operate, conduct, carry on, or maintain a massage establishment without a City massage establishment license.
- C. **Requirements for the Issuance of a Massage Establishment License.** An applicant (and where the applicant is an entity, the person holding the largest ownership interest of the entity) for a massage establishment license under this section shall:
1. Be at least twenty-one (21) years of age;

2. Obtain all licenses required by and otherwise comply with the Massage Therapy Practice Act (Utah Code Title 58, Chapter 47b) and comply with any and all rules promulgated by the Utah State Board of Massage Therapy;
3. Apply to the City for a massage establishment business license and provide the following material and information:
 - a. The address of the place where the applicant proposes to give massages or maintain a massage establishment;
 - b. A written description of all criminal convictions the applicant has had within the previous five years for crimes involving a felony, theft, fraud, deceit, misrepresentation, false statements, dishonesty, prostitution, sexual solicitation or other crimes involving moral turpitude;
 - c. The findings of a background check on the applicant conducted by the Utah Bureau of Criminal Investigations ("BCI") within the last 60 days and the results of a comparable background check from the applicant's state of permanent residency (if different) conducted within the previous 180 days;
 - d. A list of the names and addresses of all other massage establishments which the applicant currently operates or has operated in the previous five years and a statement as to whether the applicant has ever had a license to operate a massage establishment revoked or suspended and the full reasons for such revocation or suspension; and
 - e. Proof that all persons who will perform massages at the proposed massage establishment are licensed to do so by the state of Utah; and
4. Pay all applicable license fees.

D. Grounds for Denial, Suspension or Revocation.

1. In addition to the grounds for denial, suspension or revocation of a business license in section 12-4-3, a business license for a massage establishment may be denied, suspended or revoked if the applicant has been convicted of a crime within the previous five years involving a felony, theft, fraud, deceit, misrepresentation, false statements, dishonesty, prostitution, sexual solicitation, or other crimes involving moral turpitude or if the applicant has had a license to operate a massage establishment suspended or revoked in the previous five years in any jurisdiction.
2. Additional grounds for the suspension or revocation of massage establishment license include:
 - a. The massage establishment has been operated or maintained contrary to state statute or City ordinance;
 - b. Any employee of a massage establishment has performed or offered to perform massage contrary to state statute or City ordinance; or

c. Any violation of this section 12-5-14 committed by an employee of the massage establishment.

3. Suspensions or revocations of a massage establishment license shall be conducted in accordance with sections 12-4-3 and 12-4-4 of the Orem City Code.

E. **No License to be Issued at Same Location Where Three or More Violations Have Occurred for One Year.** If the City Manager or the City Manager's designee has suspended or revoked any massage establishment license as provided for herein and the City Manager or the City Manager's designee finds that at least three separate violations of this section 12-4-4 have occurred (based on a preponderance of the evidence) at a particular massage establishment within any rolling twelve month period, no application for a massage establishment license shall be accepted or approved for the same location for a period of one year after the date of the suspension or revocation.

F. **Display of Licenses.**

1. Every massage establishment licensed under this section shall prominently display in the establishment all licenses required to be displayed by Utah Code section 58-47b-301 and all licenses required and issued under this section.
2. All masseurs, while on the premises of a licensed massage establishment shall maintain in their possession or immediate presence their masseur license and shall provide proof of such license and valid government-issued personal photo identification upon request of any law enforcement or code enforcement official as well as to any person to whom the masseur has provided or offered to provide a massage.

G. **Prohibited Acts.** It is unlawful:

1. For a masseur to permit, to offer or agree to permit, or to cause a business patron to administer a massage, or a bath to any person;
2. To serve, store, or allow to be served, or allow to be consumed, any alcoholic beverage on the licensed premises of a massage establishment;
3. Subject to Utah Code Annotated section 58-47b-501(3), for a masseur to intentionally touch or massage, or to offer to touch or massage, or to agree to touch or massage, the specified anatomical areas of any patron;
4. For any person to perform or attempt or offer to perform a massage without holding a current license as a massage therapist or a massage apprentice under Utah Code Title 58, Chapter 47b, or to advertise or represent themselves as practicing massage therapy when not licensed to do so;
5. For any person to own, operate or conduct a massage establishment, or in any other manner to engage in or perform massages without complying with the licensing requirements of this section;

6. For any premises licensed as a massage establishment to be used as living or sleeping quarters by employees or other persons; or
7. For any masseur or other person employed by or allowed on the premises by the massage establishment to display any specified anatomical area to any customer or patron of the massage establishment while on the premises of the massage establishment.

H. **Penalties.** Violations of subsections 12-5-14(F)(3) and (F)(4) constitute violations of Utah Code section 58-47b-503, and shall be classified, prosecuted and penalized as outlined therein. All other violations of this section 12-5-14 are class B misdemeanors.

(Ord. No. O-2021-0031, Enacted 12/14/2021)

