

# TITLE 5

## BUSINESS LICENSING

### Chapter 1 BUSINESS LICENSE

#### 5-1-1. Definitions.

For the purpose of this chapter, the following terms shall have the meanings herein prescribed:

- (a) **Business** means and includes all activities, trades, callings, professions or occupations engaged in or caused to be engaged in within the corporate limits of Sandy City with the object of gain or economic profit. The term business shall also include the owners, managers or officers of the business who bear responsibility for causing the business to comply with this ordinance, but shall not include the acts of employees rendering service to those owners, managers or officers. Notwithstanding, for the purposes of this title, business shall include nonprofit entities and charitable organizations qualified as 501(c)(3) (non-profit).
- (b) **City** means the incorporated limits of Sandy City as it may be amended from time to time.
- (c) **License** means a business license certificate issued by Sandy City under these ordinances.
- (d) **License fee** means the business license fee, renewal fee, or replacement fee (as applicable) and other fees as established by the City Council.
- (e) **License Section** means those assigned to process business licenses within the Sandy City Community Development Department.
- (f) **Mayor** means the Sandy City Mayor or his designee.
- (g) **Person** means any individual, receiver, assigner, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club company, joint stock company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.
- (h) **Place of business** means any location maintained or operated by a licensee within the City from which business activity is conducted or transacted. (Ord 16-22, Amended 6/6/2016)

#### 5-1-2. Unlawful to Transact Business Without a License.

- (a) It shall be unlawful for any person to be engaged in business without first having obtained a license from the City unless exempted under these ordinances or under other applicable law.
- (b) A separate license must be obtained for each branch establishment, or separate place of business, in which the business is carried on, and for each separate kind of business.
- (c) Each license shall authorize the party obtaining it to carry on, pursue, or conduct only that business described in such license, and only at the location or place of business which is indicated thereby.

- (d) Any person violating any of the provisions of this title shall be guilty of a Class B misdemeanor.
- (e) Imposition of criminal penalties for violations of this title shall not be construed to prevent the City from taking other actions consistent with other laws. (Ord 16-22, Amended 6/6/2016)

### **5-1-3. Duties of Business License Section.**

- (a) It shall be the duty of the License Section to prepare and issue a license after the license fee has been paid and the license has been approved as provided herein. The license shall state the period of time covered thereby, the name of the person to whom issued, the business licensed, and the location or place of business.
- (b) The License Section shall charge a fee established by the City Council for each duplicate license issued to replace any license issued under these ordinances.
- (c) In no case shall any mistake made by the License Section in under-stating the fee for a license prevent or prejudice the collection by the City of what shall be actually due from any person carrying on a business subject to a license under this title.
- (d) The License Section shall keep on file an alphabetical list of the licenses issued with the number, name of applicant, place and kind of business, and such remarks as may be considered necessary. (Ord 16-22, Amended 6/6/2016)

### **5-1-4. Application and Licensing Procedure.**

- (a) A license application shall be initiated by the applicant filing a written application on a form, and addendums if any, provided by the License Section, accompanied by payment of the license fee. If for any reason the license is not granted the license fee shall be refunded to the applicant, with exception of one-fourth the amount, or amounts established by the City Council, being retained by the City to cover processing costs.
- (b) No license shall be approved by the Mayor until the City's Police Chief, Fire Chief, Chief Building Inspector, Director of Community Development, or their designees, and the License Section, and other agencies as may be required, have reviewed the application and made their recommendations. The recommendations shall be returned to the License Section.
- (c) The License Section shall then submit the application, with the recommendations, to the Mayor. The Mayor shall make his determination within ten (10) working days from the date he receives a completed application, with the recommendations, from the License Section.
- (d) The Mayor may deny or revoke the license if the applicant has:
  - (1) been convicted of a felony or charged with any crime involving moral turpitude;
  - (2) obtained a license by fraud or deceit;
  - (3) failed to pay personal property taxes, Utah state sales taxes, or other required fees; or
  - (4) violated the laws of the State of Utah, the United States Government, or any ordinance, rule or regulation of the City or any Salt Lake County or Utah state agency governing operation of the business holding the license or permit.
- (e) If the application is approved, the Business License Section shall issue a license as provided by this ordinance.
- (f) In addition to the license fee, any applicant which shall have commenced doing business prior to obtaining a valid business license may be assessed a penalty fee as established by City Council. (Ord 16-22, Amended 6/6/2016)

### **5-1-5. Compliance with Building and Zoning Requirements.**

No license shall be valid for any business, and no permit shall be valid for any activity, if the business or activity purposed do not fully comply with all applicable Federal, State, Salt Lake County and City laws, regulations and ordinances, including all City building, fire and zoning ordinances. (Ord 16-22, Amended 6/6/2016)

### **5-1-6. Temporary Permits.**

- (a) Notwithstanding other provisions to the contrary, the License Section may issue a temporary permit to conduct business, which permit shall be valid for not more than sixty (60) days and which cannot be extended or renewed, if any of the following conditions exist:
  - (1) a delay in granting a license exists because of delayed inspection requirements and / or research by City staff, or
  - (2) a delay in granting a license exists because the developer, lessor, builder, seller, or other person (not the applicant) is causing the delay which precludes the issuance of the license, and there is no significant reason to delay the opening of the business, or
  - (3) it appears on the face of the application that there is no basis for the denial of a license other than the applicant has been doing business without a license under innocent mistake of fact, being unaware of his duty to obtain a license.
- (b) Temporary permits may also be issued for seasonal sales such as pumpkin sales, Christmas tree sales, flowers sales for Memorial Day, and other such sales, unless otherwise regulated under any applicable Sandy City Ordinance.
- (c) Fees charged for temporary permits shall be established by the City Council. (Ord 16-22, Amended 6/6/2016)

### **5-1-7. Renewal.**

- (a) A license shall be renewed in conformance with the following schedule:
  - (1) A building contractor and building subcontractor license shall be renewed for a one year period on July 1<sup>st</sup> through June 30<sup>th</sup> for each year.
  - (2) A home occupation license shall be renewed on April 1<sup>st</sup> effective through the last day of March.
  - (3) Commercial business licenses shall be renewed on the January 1<sup>st</sup> effective through December 31<sup>st</sup>.
  - (4) A temporary business, itinerant business, and door-to-door solicitors having no permanent, fixed location in the City are not subject to license renewals and instead must re-apply for a new license should such business wish to continue beyond the expiration date indicated on the license certificate, and in accordance with all provisions of these Sandy City Ordinances.
- (b) The License Section is responsible for mailing a renewal notice to each business pursuant to a schedule described in the Business License and Billing Collections section of the Sandy City Operations Manual. (Ord 16-22, Amended 6/6/2016)

### **5-1-8. License Fees - When Due - Penalties for Late Payment or Nonpayment.**

- (a) Except as otherwise provided in this title, any person engaged in business shall pay the license fee to conduct or operate a business in the City.
- (b) A license fee not paid when due shall be considered delinquent and the following penalties shall be charged:
  - (1) Failure to pay within 30 days of the due date - Twenty-five percent of the normal fee in addition to the normal fee.
  - (2) Failure to pay after 45 days of the due date - Seventy-five percent of the normal fee in addition to the normal fee.
- (c) Any person engaged in business before having received a license may be charged a penalty which shall be one hundred percent of the normal license fee in addition to the normal license fee.
- (d) The applicant may appeal any penalty charged pursuant to this section through the administrative appeal process. Information concerning the appeal process shall be available from the License Section upon request.
- (e) License fees for licenses issued for less than a full year shall be charged on a quarterly pro-rata basis. Any portion of a quarter shall be considered a full quarter in computing the pro-rata license fee. (Ord 16-22, Amended 6/6/2016)

#### **5-1-9. Transferability.**

No license issued under this title shall be transferable except under the following conditions:

- (a) A license may be transferred to another location if:
  - (1) The licensee makes application for such transfer stating the new location and date of transfer,
  - (2) The new location has been inspected by and passes all requirements of all appropriate City departments, as determined by the License Section, to include but not be limited to, the City's Fire and Police Departments, Building and Safety Division, and Planning Division,
  - (3) The new location complies with all rules, regulations, statutes and ordinances of all appropriate Salt Lake County, State of Utah and federal agencies, and
  - (4) All appropriate fees are paid, including inspection fees and transfer fees.
- (b) No license may be assigned or transferred to any person.
- (c) No license may authorize any business except as named thereon.
- (d) If a partnership or association applies to delete the name of an individual or group of individuals from its license, a new license may be reissued in the name of the revised partnership or association provided the appropriate license fee is paid and appropriate applications are supplied. (Ord 16-22, Amended 6/6/2016)

#### **5-1-10. Display of License.**

- (a) Every person having a license, and carrying on a business, at a fixed location of business, shall display the license in a conspicuous place at that fixed location.
- (b) Every person having a license, and carrying on a business, and not having a fixed location of business, shall carry the license with him at all times while carrying on that business.
- (c) Every person having a license, and carrying on a business, shall produce the license whenever requested to do so by a police officer, or other person authorized to issue licenses, inspect premises, or collect fees for licenses.

- (d) Notwithstanding, and in addition to the requirements above, a door-to-door solicitor shall be required to produce the license when requested by persons being solicited. (Ord 16-22, Amended 6/6/2016)

### **5-1-11. Powers of Police and Fire Department.**

All City police officers, firefighters and code compliance officers are authorized to examine all places of business and persons and to see that licenses are current and that the business is carried on in accordance with this title and other applicable laws. (Ord 16-22, Amended 6/6/2016)

### **5-1-12. Prima Facie Evidence.**

- (a) In any action brought under or arising out of the provisions of this title, if a person represents himself as engaged in a business for which a license is required, or if a person exhibits a sign advertising such a business, that shall be prima facie evidence of the liability of such person to hold a license.
- (b) The conviction and punishment of any person for transacting any business, trade, calling, profession or occupation without a license, shall not excuse or exempt such person from the payment of any license due or unpaid at the time of such conviction, and nothing shall prevent a criminal prosecution for any violation of the provisions of this title. (Ord 16-22, Amended 6/6/2016)

### **5-1-13. No Rebate Allowed.**

No rebate shall be allowed for any license unless the applicant makes application to the Mayor showing good cause. The Mayor shall have discretionary power as to what, if any, amount shall be rebated. (Ord 16-22, Amended 6/6/2016)

### **5-1-14. Exemptions.**

- (a) Persons engaged in the following activities may be exempt from the license provisions under this title:
- (1) a farmer engaged in the production of crops, livestock and other agricultural products and in the sale exclusively of agricultural products by him, provided such crops and other agricultural products are sold on the property where grown,
  - (2) a non profit organization or operation where the receipts, when collected by a public educational facility, military, or governmental organization, are appropriated for the purposes and objects for which such organization is formed, and no person directly or indirectly derives a profit therefrom,
  - (3) an employee working in the service of an employer where the employer has been issued a valid License,
  - (4) a general contractor or sub-contractor engaged in contract work in the City, who do not have offices in the City, but have offices in a jurisdiction which has reciprocal licensing for contractors with the City, and who have a current valid state and local license from that jurisdiction in which their office is located,
  - (5) a person under the age of sixteen (16) conducting a business as a part time hobby or occupation who is not engaged in such business activities that would be considered the principal means of that person's support,
  - (6) if the business consists of mere delivery in the City of goods or trade services purchased at a regular and licensed place of business outside of the City, not including, however, mobile

- food vendor businesses, or
- (7) if the business is an approved vendor at a city-sponsored event.
- (b) Persons engaged in the following activities may be exempt from license fees, but shall obtain a license and shall operate the business in accordance with all applicable laws regulating the business:
  - (1) a non-profit charitable organization, or a fraternal association or organization, exempted by State or federal law,
  - (2) a private, non-profit educational facility,
  - (3) a person who can demonstrate, by appropriate medical or institutional proof, that the person is disabled and is thereby restricted to the type of work in which he can be engaged and should be allowed an exemption, or
  - (4) a business that is explicitly described in State or Federal law as having an exemption from local license fees. (Ord 16-22, Amended 6/6/2016)

### **5-1-15. Audit - Corrections.**

All license fees and reports shall be subject to audit and correction at the close of any calendar year. The License Section may examine the business records of any person engaged in business within the City. (Ord 16-22, Amended 6/6/2016)

### **5-1-16. Public Health.**

A person engaged in a business involving manufacturing, handling or processing food or perishable items shall have written approval from the Salt Lake Valley Health Department and / or the U.S. Department of Agriculture before a license may be issued. A license may be revoked at any time for non-compliance with the City / County / State and / or Federal Health and Sanitary Ordinances or Regulations. (Ord 16-22, Amended 6/6/2016)

### **5-1-17. Denial, Suspension or Revocation of Licenses.**

- (a) In addition to other provisions in these ordinances, the Mayor may deny a license application, or suspend or revoke any license which has heretofore been issued, for the following reasons:
  - (1) obtaining or renewing, or aiding another in obtaining or renewing, a license by fraud, deceit or misrepresentation, or
  - (2) filing or encouraging another to file false information with the License Section or any other state or local agency as part of the licensee's license application, or
  - (3) failing to pay any fees required by this title or other City ordinance or resolution, or
  - (4) refusing to permit authorized officers to make inspection or to take samples of commodities, or interfering with such officers while in the performance of their duties, or
  - (5) knowingly allowing illegal activities to occur on any place of business in which the licensee has interest, or
  - (6) violating any law of the State of Utah, the United States Government, or any ordinance, rule or regulation of the City or any Salt Lake County or Utah state agency governing operation of the business holding the license or permit.
- (b) It shall be unlawful for any person whose application for license is denied, or whose license has been suspended or revoked to carry on or continue to conduct any business for which the license was denied, suspended or revoked.



- (c) No person who has been denied a license or whose license has been revoked under the provisions of this ordinance and no person associated or connected with such person in the conduct of such business shall be granted a license to carry on the business, trade, calling, profession or occupation for which the said license was denied or revoked until he again makes application for a new license fee as is required by ordinance. (Ord 16-22, Amended 6/6/2016)

### **5-1-18. Denial, Suspension and Revocation of Licenses - Applicant to be Heard.**

- (a) The License Section may recommend the denial, suspension or revocation of a license to the Mayor.
- (1) Upon recommendation to deny, suspend or revoke, the License Section shall notify the applicant or licensee ("respondent") in writing, by certified mail to the most current business address or other mailing address on file with the License Section, or by personal delivery, of the recommendation to deny, suspend, or revoke, to include the grounds therefore.
  - (2) Within ten (10) working days of receipt of such notice, the respondent may request a hearing in writing to the Mayor. The hearing request will include a statement of reasons why the license should not be denied, suspended, or revoked.
  - (3) Within ten (10) working days from the receipt of the respondent's hearing request, the Mayor shall notify the respondent of the hearing date, which hearing shall be within twenty (20) working days from receipt of respondent's request for a hearing.
  - (4) The Mayor may appoint a hearing officer to conduct the hearing, hear the evidence to determine if grounds exist for denial, suspension or revocation, and render a decision.
  - (5) At the hearing, the respondent shall have the opportunity to be represented by counsel, present its evidence and witnesses, and cross-examine any of the City's witnesses.
  - (6) The Mayor or hearing officer shall issue a written opinion within ten (10) working days after the hearing and send the same, by certified mail or personal delivery, to the respondent.
  - (7) If the Mayor or hearing officer determines that sufficient grounds exist for denial, suspension or revocation, such shall become final five (5) days after the written opinion is sent, and shall include a statement advising the respondent of its right to appeal the decision to a court of competent jurisdiction.
  - (8) An appeal to such court of competent jurisdiction must be made within twenty (20) days after the decision to deny, suspend or revoke becomes final.
- (b) If the Mayor or hearing officer finds that insufficient grounds exist for denial, suspension, or revocation, the Mayor shall so notify the respondent within five (5) days after the hearing and direct the License Section to issue the license so long as all other requirements have been met. (Ord 16-22, Amended 6/6/2016)

### **5-1-19. Mayor Responsibility.**

Notwithstanding any provision of this ordinance to the contrary, all licensing approvals, denials, transfers, suspension, revocations and similar actions under this title shall be decided by the Mayor. (Ord 16-22, Amended 6/6/2016)

### **5-1-20. Obscene conduct in places of business, suspension or revocation of license.**

It shall be unlawful for any owner, operator, manager or lessee, or any agent, partner, associate or employee of such owner, manager or lessee, of any business, to allow or permit an entertainer, employee, patron or any other person to appear in or on said place of business naked, or in indecent attire or lewd dress except in such business licensed pursuant to the Sexually Oriented Business License Ordinance, or to make any obscene exposure of his or her person. (Ord 16-22, Amended 6/6/2016)



## Chapter 2      **ALCOHOLIC BEVERAGE REGULATIONS**

### **5-2-1      Definitions.**

- a.      Alcohol and Alcoholic Beverage means beer, wine liquor, heavy beer and all other drinks that contain more than one-half of one percent of alcohol by volume and are suitable to use for beverage purposes.
- b.      Alcohol Consumption Area means a designated area for the sale and consumption of alcoholic beverages.
- c.      Application means a formal written request submitted to Sandy City, for the issuance of a Sandy City permit, license or Local Consent.
- d.      Beer means and includes beer, ale, porter, stout, lager, malt or malted beverage that contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight. "Beer" does not include a flavored malt beverage.
- e.      Club, Dining means a club that has dining, and which operates under a Dining Club License issued by the Utah Department of Alcoholic Beverage Control.
- f.      Club, Equity means a club that is owned by its members and run by a board of directors elected by the members, such as a country club, and which operates under an Equity Club License issued by the Utah Department of Alcoholic Beverage Control.
- g.      Club, Fraternal means a mutual benefit or patriotic association that is organized under a lodge system, and which operates under a Fraternal Club License issued by the Utah Department of Alcoholic Beverage Control.
- h.      Club, Social means a general purpose club, which includes a nightclub, in which a variety of food is available and which operates under a Social Club License issued by the Utah Department of Alcoholic Beverage Control.
- i.      Flavored Malt Beverage is classified as a liquor and means a beverage that contains at least 0.5% alcohol by volume and which is manufactured using nontraditional processes employed to produce beer, to which is added a flavor or other ingredient.
- j.      Heavy Beer means a product that contains more than 4% alcohol by volume and greater than 3.2% by weight; and is obtained by fermentation, infusion, or decoction of malted grain. Heavy Beer is considered liquor for the purposes of this ordinance.
- k.      Hotel means a building and its uses as described in the Sandy City Land Development Code.

l. Hotel License consists of a “general hotel license” which must include three or more sublicenses. One sublicense must include a restaurant or dining club license and one sublicense must include a banquet sublicense. Multiple locations for the licensed premises operate within the hotel and are established by state statute and defined by the Utah Department of Alcoholic Beverage Control.

m. Licensee means any persons holding any license referenced in Title 5, Chapter 2 in connection with the operation of a place of business. This term shall also include any employee of the licensee.

n. License Official means the Business License Administrator or a designated agent of the Business License Administrator.

o. Licensed Premise means any building, room, place, enclosure, or structure occupied by any person licensed to store, sell, serve or allow consumption of beer or liquor on such premises under this chapter; provided, that in any multi-roomed establishment, an applicant for a restaurant alcohol license for on-premise storage, sale, service, or consumption of beer or liquor shall designate a portion of the building for these uses, which portion so specifically designated in the application and in the license issued pursuant thereto shall be the licensed premises.

p. Liquor means:

(1) Alcohol, or any alcoholic, spirituous, vinous, fermented, malt or other liquid, or combination of liquids, a part of which is spirituous, vinous or fermented, and all other drinks or drinkable liquids that contain more than 0.5% of alcohol by volume and are suitable to use for beverage purposes.

(2) Liquor does not include beer.

q. Local Consent means a written document provided by the License Official to the Utah Department of Alcoholic Beverage Control indicating the City’s consent for the Utah Department of Alcoholic Beverage Control to issue a specific type of beer or liquor license.

r. Manufacturing License means a license issued to a winery, distillery, or brewery to distill, brew, rectify, mix, compound, process, ferment or otherwise make alcohol for personal use or for sale, transport export or distribute to others.

s. Mayor means the Mayor of Sandy City, Utah.

t. Minor means any person under the age of 21 years.

u. Nuisance means a licensed premise:

(1) Where three or more violations of Federal, State, County or City codes have occurred within the preceding twelve (12) month period.

(2) Where multiple, valid and verified complaints and violations have been filed regarding excessive noise, violence, violations of hours of operation, debris or garbage, disruption of the business operations of surrounding businesses or the disruptions of the peace and full use of the property of a home owner.

v. Off Premise Beer Retailer means an establishment licensed to sell beer in original containers (not to exceed two liters) for consumption off the premises.

w. On-Premise Banquet and Catering License An on-premise banquet license allows the storage, sale, service, and consumption of liquor, wine, heavy beer, and beer for contracted banquet activities on the premises of a hotel, resort facility, sports center, or convention center. It also allows for room service in hotels and resorts. Alcoholic beverages may be sold on any day from 10:00 A.M. until 1:00 A.M. as defined by the Utah Department of Alcoholic Beverage Control.

x. On-Premise Beer Retailer/Recreational License means a license that is required for the sale of beer at retail for on-premise consumption. At least 70% of the sales at the recreational facility must be food, or maybe from gross revenues directly related to the recreational amenity. On-Premise Beer Retailer/Recreational licenses are for establishments that are tied to a “recreational amenity” as defined by Utah Department of Alcoholic Beverage Control.

y. On-Premise Beer Retailer/Tavern License means a license issued to an establishment where beer is sold for consumption to the general public on the premises in any size of open container not exceeding two liters or on draft and where the sale of beer exceeds the sale of food.

z. Package Agency means a retail establishment under a contractual agreement with the State of Utah Department of Alcoholic Beverage Control, or by a person other than the State, who is authorized by the Utah Alcoholic Beverage Control Commission to sell packaged alcoholic beverages for consumption off the premises of the Package Agency.

aa. Person includes an individual, firm, partnership, corporation, association, business trust or other form of business entity or enterprise, including a receiver, trustee and the plural as well as the singular in number, unless the intent gives a more limited meaning that is disclosed by the context.

bb. Place of Business or Establishment shall include cafes, restaurants, public dining rooms, cafeterias, taverns, performance venues and any other place where the general public is invited or admitted for business purposes, and shall be deemed to include dining, equity, fraternal or social clubs, and corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business or establishments that are herein defined.

cc. Public Place means and refers to any of the following which are open to and generally used by the public: streets, roads, and alleys of incorporated cities and towns, state or county highways or roads; buildings and grounds used for school purposes; and public dance halls and adjacent grounds; any place of public resort or amusement; lobbies, halls, dining rooms; hotels; restaurants; theaters; stores; garages and service stations; any public conveyance and its depots and waiting rooms which are open to unrestricted use and access by the public; publicly owned water parks or swimming pools, parks and playgrounds; and all other places which under this chapter have been declared to be a public place.

dd. Reception Center means a facility where a license is obtained for the storage, sale, service, and consumption of liquor, wine, heavy beer, and beer for banquet and event functions on the premises. The reception center must be at least 5000 sq. ft. and have culinary facilities on the premises or under the control of the center that are adequate to prepare full meals. Its primary purpose must be leasing its facility to a third party for the third party's event.

ee. Residence means and includes any building or part of a building where a person resides, but shall not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel other than a private guest room, nor a club, or any part thereof, nor any place from which there is access to a club or hotel through a street or lane or other open and unobstructed means of access, nor any portion of a building used in part for business purposes unless such portion is separated from the part used for business purposes by a wall or walls having no doors or other means of access opening into such part used for business purposes.

ff. Retailer means any person engaged in the sale or distribution of alcohol to the consumer.

gg. Resort License Establishment means a resort building affiliated with a ski area that abuts the building, which building has at least 400,000 square feet, and 150 dwellings or lodging accommodations of which 50% must be owned by a person other than the resort licensee, and which operates under a Resort License issued by the Utah Department of Alcoholic Beverage Control.

hh. Restaurant for the purposes of this chapter, shall mean a place of business where a variety of foods are prepared and served to the general public, primarily in indoor or patio dining accommodations.

ii. Restaurant, Beer-only means a restaurant wherein beer is stored, sold and served for consumption on the premises, in conjunction with an order of food that is prepared, sold and served at the restaurant to the general public. Each restaurant must maintain at least 70% of its total restaurant business from the sale of food, as established by the Utah Department of Alcoholic Beverage Control.

jj. Restaurant, Full Service means a restaurant wherein alcoholic beverages are stored, sold and served for consumption on the premises, in conjunction with an order of food that is prepared, sold and served at the restaurant to the general public. Each restaurant must maintain at least 70%

of its total restaurant business from the sale of food, as established by the Utah Department of Alcoholic Beverage Control.

kk. Restaurant, Limited Service means a restaurant wherein wine, heavy beer and beer, is stored, sold and served for consumption on the premises, in conjunction with an order of food that is prepared, sold and served at the restaurant to the general public. Each restaurant must maintain at least 70% of its total restaurant business from the sale of food, as established by the Utah Department of Alcoholic Beverage Control.

ll. Sell, Sales and to Sell means any transaction or exchange whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value or by any means or under any pretext is promised or obtained; whether done by a person as a principal, proprietor, or as an agent, servant, or employee, unless otherwise defined in this title adopted by Sandy City or the State Alcoholic Beverage Control Commission.

mm. State Store means a facility for the sale of alcohol located on premises owned or leased by the State of Utah and operated by State employees. This term shall not apply to restaurants, clubs or package agencies.

nn. Temporary Alcohol License means a Single Event Permit or a Temporary Beer Permit as herein described, and as defined by the Utah Department of Alcoholic Beverage Control.

oo. Wholesaler means any person other than a brewer or retailer engaged in the importation and storage of beer for sale, or the sale of beer directly to licensed beer retailers and holders of single event permits and Temporary Beer Permits.

pp. Wine means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, milk, or other like substances, whether or not another ingredient is added. (ord 16-42, Amended 1-26-2017)

## **5-2-2 Office Created – Personnel.**

There is hereby created a license office within the Community Development Department which office shall be under the charge of the License Official in accordance with the provisions of this chapter. (ord 16-42, Amended 1-26-2017)

## **5-2-3 License Official—Powers and Duties.**

The License Official shall assess a fee for each type or classification of license in accordance with the provisions of this title and the applicable statutes of Utah and shall receive all license fees required herein to be paid. The assessment shall be based upon the rates established by resolution of the Sandy City Council. The License Official shall process the applications and receive all bonds as required under this chapter, and determine compliance with all applicable ordinances and statutes before issuing a license or Local Consent, and shall review and notify any

applicant of license, bond or Local Consent denial, suspension or revocation. The License Official shall also keep and maintain a suitable index of licensees. (ord 16-42, Amended 1-26-2017)

#### **5-2-4 Sales at Wholesale- License Required.**

It is unlawful for any person to engage in the business of selling beer at wholesale within Sandy City without first obtaining a wholesale beer license from the Utah Department of Alcoholic Beverage Control and obtaining a business license from Sandy City.  
(ord 16-42, Amended 1-26-2017)

#### **5-2-5. Sales at Retail-License Required.**

- a. It is unlawful for any person to engage in the business of the sale of alcohol at retail within Sandy City without first procuring the appropriate license. A separate license shall be required for each place of sale, or place of business, or separate establishment.
- b. It shall be unlawful for any person to operate any association, establishment, restaurant, club or similar business which allows customers, members, guests, visitors or other persons to sell, possess or consume alcohol in the premises without first procuring the appropriate license therefore as provided in this Chapter.
- c. The license shall identify the specific premises covered thereby and shall at all times be conspicuously displayed in the place for which it is issued.
- d. All licensees shall comply with the provisions of the Alcoholic Beverage Control Act of Utah, and the regulations of the Alcoholic Beverage Control Commission-and this chapter and all other applicable local, state and federal regulations. (ord 16-42, Amended 1-26-2017)

#### **5-2-6. Licenses and Permits—Classification.**

Licenses, Local Consent and permits issued under the provisions of this chapter shall be classified into the following types. Applicants are required to obtain a separate license and Local Consent (if required) for each license type. Establishments that hold any of the following licenses or permits shall comply with all provisions of Utah State Code and Sandy City Code applicable to the license or permit type, including but not limited to hours of operation and limitations on minors. (ord 16-42, Amended 1-26-2017)

<b><u>License/Permit</u></b> <b><u>Name</u></b>	<b><u>Sandy City Description</u></b>	<b><u>State</u></b> <b><u>Code</u></b>	<b><u>Local</u></b> <b><u>Consent</u></b>
Off-Premise Beer Retailer License	An Off-Premise Beer Retailer license shall entitle the licensee to sell beer in original containers (not to exceed two liters) for consumption off the premises.	32B Ch, 7	No

Beer-Only Restaurant License	A Beer-Only Restaurant license shall entitle the licensee to sell beer for consumption on the premises of a licensed restaurant in open containers and on draft in any size not to exceed two liters capacity, in conjunction with an order of food.	32B Ch, 5 Ch,6 -Part 9	Yes
On-Premise Beer Tavern License	An On-Premise Beer Tavern License shall entitle the licensee to sell beer for consumption on the licensed premises in open containers and on draft not exceeding two liters, where the revenue from the sale of beer exceeds the revenue of the sale of food. On-Premise Beer Tavern Licenses are limited as accessory establishments or may be located within a shopping center. Minors are not permitted on the premises of a tavern.	32B Ch, 5 Ch, 6 -Part 7	Yes
Manufacturing License	Manufacturing licenses include brewery, distillery, and winery licenses. A brewery license is required to manufacture, brew, store, transport, or export beer and heavy beer. A distillery license is required to manufacture, store, transport, import or export liquor. A winery license is required to manufacture, store, transport, import or export wines.	32B- Ch, 5 Ch, 11	Yes
On-Premise Recreational Beer Retailer License	An On-Premise Beer Retailer license is required for the sale of beer at retail for on-premise consumption for establishments that are tied to a “recreational amenity” as defined by the Utah Department of Alcoholic Beverage Control. At least 70% of the sales at the recreational facility must be food, or may be from gross revenues directly related to the recreational amenity.	32B Ch, 5 Ch, 6 -Part 7	Yes
Resort License	Resort Licenses are required for the storage, sale, service and consumption of alcoholic beverages on the premises of a resort building that has at least 150 dwelling or lodging accommodations, and the building must be at least 400,000 square feet. The resort building must be affiliated with a ski area that abuts the resort building premises.	32B Ch, 5 Ch, 8	Yes
Full Service Restaurant License	Full Service Restaurant licenses are required for the storage, sale, service, and consumption, of beer and liquor on the premises of a restaurant that is engaged primarily in serving meals to the general public.	32B Ch, 5 Ch, 6 -Part 2	Yes



Limited Service Restaurant License	Limited Service Restaurant licenses are required for the storage, sale, service, and consumption of wine, heavy beer, and beer on the premises of a restaurant that is engaged primarily in serving meals to the general public.	32B Ch, 5 Ch, 6 -Part 3	Yes
Club Liquor License	A Club Liquor license is required for an equity club, a fraternal club, a dining club, or a social club.	32B, Ch, 5 Ch, 6 -Part 4	Yes
On-Premise Banquet and Catering License	An On Premise Banquet and Catering License is required for the storage, sale, service, and consumption of liquor, wine, heavy beer, or beer for contracted banquet activities on the premises of a hotel, resort facility, sports center, or convention center. It also allows for room service in hotels and resorts.	32B Ch, 5 Ch, 6 -Part 6	Yes
Package Agency	A retail establishment under a contractual agreement with the State of Utah Department of Alcoholic Beverage Control, or by a person other than the State, who is authorized by the Utah Alcoholic Beverage Control Commission to sell packaged alcoholic beverages for consumption off the premises of the Package Agency.	32B Ch, 2	Yes
Reception Center License	A Reception Center license is required for the storage, sale, service, and consumption of liquor, wine, heavy beer, and beer for banquet or event functions on the premises of a reception center which must be at least 5000 sq. ft. and have culinary facilities on the premises or under the control of the center that are adequate to prepare full meals. Its primary purpose must be leasing its facility to third parties for the third parties' event.	32B Ch, 5 Ch, 6 -Part 8	Yes

Single Event Permits	A Single Event permit allows the licensee to sell and allows the on premise consumption of any alcohol (including beer) at a temporary event. The licenses are available to a bona fide partnership, corporation, limited liability company, church, political organization, or incorporated association or to a recognized subordinate lodge, chapter or other local unit thereof that is conducting a civic or community enterprise or convention. Multiple Single Event Permits may be obtained per calendar year, limited to the number of events permitted by the Utah Department of Alcoholic Beverage Control.	32B Ch, 9 -Part 1 -Part 2 -Part 3	Yes
Temporary Beer Event Permits	Temporary Beer Event permits are required to sell beer for on-premise consumption at a temporary event. Multiple Temporary Beer Event Permits may be obtained per calendar year, limited to the number of events permitted by the Utah Department of Alcoholic Beverage Control.	32B Ch, 9 -Part 1 -Part 2 -Part 4	Yes
Hotel License	Available on a limited basis from the Utah Department of Alcoholic Beverage Control consisting of a general hotel license and 3 or more sublicenses. One sublicense must be a Restaurant License and one must be an On Premise Banquet License. Hotels with more than one Club must apply for separate sublicenses and may not combine multiple Clubs into one sublicense. Sublicenses include all the various restaurant licenses, taverns, club licenses and on premise beer retailer. Licenses are subject to size and location restrictions as described by the Utah Department of Alcoholic Beverage Control.	32B Ch, 8B	Yes

### **5-2-7. Single Event and Temporary Beer Event Permits.**

- a. A Single Event permit and corresponding Local Consent allows a qualifying organization to sell and allows the consumption of all alcoholic beverages, for temporary time periods not to exceed those permitted by the Utah Department of Alcoholic Beverage Control.
- b. A Temporary Beer Event permit and corresponding Local Consent allows for the sale and consumption of beer and shall be valid for a period of time not to exceed thirty (30) consecutive calendar days. A series of Temporary Beer Event permits issued to the same person may not exceed 90 days in any one calendar year.
- c. Alcoholic beverages shall be sold and consumed only in a designated Alcohol Consumption Area. At the discretion of the Community Development Director, the designated

Alcohol Consumption Area may incorporate the event site or may be required to be separated from the event by a barrier, approved by the Community Development Director. The Community Development Director may prohibit minors from entering the Alcohol Consumption Area if the Community Development Director determines access would be detrimental to minors. The sale and consumption of alcoholic beverages shall be restricted to the immediate proximity of the event and only in designated areas.

d. Single Event or Temporary Beer Event permits and corresponding Local Consent are issued only in conjunction with a community or private event, where a Sandy City Business License or permit, and Single Event or Temporary Beer Event permit has been obtained.

e. A Temporary Beer Event or Single Event permit requires alcoholic beverages to be sold in containers, or transferred to containers for consumption on the premises, and in containers that are visibly distinct from containers that contain non-alcoholic beverages.

f. All holders of a Temporary Beer Event or Single Event permit must provide controlled access to the Alcohol Consumption Area. Plans for such access must be provided to the License Official at the time of application.

g. All holders of Temporary Beer Event or Single Event permits must provide security personnel for the facility or location. The names of security personnel or security agency must be provided to the Sandy City Police Department at the time of application.

h. Each person seeking a Temporary Beer Event or Single Event permit shall submit to the License Official a cash deposit, payable to the City in the amount of one thousand dollars (\$1,000.00) to assure compliance with the provisions of this section, including but not limited to the removal of all materials and the cleaning of the site within seven (7) days after the expiration of the Temporary Beer or Single Event permit. In the event the licensee does not comply or remove the materials or clean the site, the City may do so, or cause the same to be done by other persons, and a portion or all of the deposit in the amount of the reasonable cost plus an administrative fee shall be retained by the City. If the cost plus the fee exceeds the deposit, Sandy City shall send an invoice to the applicant, and the applicant shall pay the invoiced amount.

i. A Temporary Beer Event or Single Event permit applicant shall abide by all applicable State and local laws, ordinances and regulations.

j. Applicants for a Temporary Beer or Special Event permit shall provide to the license official at the time of application, the event title, location, licensing jurisdiction and dates of operation for other temporary alcohol permits had been issued for the applicant's preceding three (3) events, whether the event(s) occurred in Utah or in another state. (ord 16-42, Amended 1-26-2017)

## **5-2-8. License Application, Contents and Applicant Qualifications.**

a. All applications for licenses, for renewal or re-issuance of licenses, requests for Local Consent and for transfer of licenses to new Sandy City locations authorized by this chapter shall be reviewed by and filed with the License Official and shall include the following items:

- (1) The name, current address and telephone number of the applicant(s).
- (2) The age and date of birth of the applicant(s).
- (3) The social security number of the applicant(s).
- (4) The state sales and use tax number for the business.
- (5) The citizenship and/or place of legal permanent residency of the applicant(s).
- (6) All addresses of the applicant(s) for the previous five (5) years.
- (7) All names, addresses of the licensing authorities of all similar businesses previously owned or operated by the applicant(s) for the previous five (5) years.
- (8) The location of the premises to be licensed.
- (9) A drawing or rendering indicating the area for alcohol sales, storage areas and consumption areas.
- (10) A sworn statement signed by the applicant(s) that all the facts included in the application are true.
- (11) All licensed premises shall also comply with the provisions of Title 5, general Business License Ordinances of Sandy City.
- (12) Any other information that the city may require.

b. If the applicant is a partnership, association, group, corporation, limited liability company, trust or other similar entity, the above information shall be provided with respect to each individual officer, partner, member and director having 20% or more ownership in the establishment or entity, and each individual officer, partner, member, owner and director having 20% or more ownership must be listed on the application form as an applicant. The application must be subscribed by the applicant(s), who shall state under oath that the facts therein contained are true.

c. If the licensed premises is to be operated or managed by a person other than the applicant(s), said operator and all managers must join in the application and file the same information required of an applicant.

d. If there are any changes made in the names of the applicants and/or the operator and managers of the licensed premises, an update to the license application must be filed within 30 days of the change.

e. No license or Local Consent as described in 5-2-6 shall be granted unless the applicant is of age 21 or over, not having been convicted of crime of moral turpitude, and except in the case of a Temporary Beer Event or Single Event permit, the applicant shall also be a citizen of the United States or a permanent resident of the United States (Alien or Permanent Residency registration card required).

f. The License Official shall submit copies of the application to the Planning Division, Building and Safety Division, Fire Department, Salt Lake Valley Health Department, Police Department and any other Federal, State, or local agencies as deemed necessary to provide a recommendation as to whether a business license, alcohol beverage license and Local Consent should or should not be issued.

g. All applicants who are beginning a new business or renewing a business license shall also comply with all applicable general business licensing requirements. (ord 16-42, Amended 1-26-2017)

### **5-2-9. Location Requirements.**

a. No license allowing on premise consumption of alcohol shall be approved or issued by the City and no Local Consent shall be issued by the City to any establishment that does not comply with the location and distance requirements set forth in the Utah Alcoholic Beverage Control Act and within prescribed zones as set forth in the Sandy City Land Development Code.

b. No Off Premise Beer Retailer license shall be issued to any establishment that does not comply with the Sandy City Land Development Code. (ord 16-42, Amended 1-26-2017)

### **5-2-10. Expiration and Renewal.**

a. All business and Alcoholic Beverage licenses issued by the City for establishments operating in a Commercial Zone, with the exception of Single Event permits and Temporary Beer Event permits, shall expire on the thirty-first (31<sup>st</sup>) day of December each year.

b. In the event that the renewal fees and all renewal documentation are not received at the office of the License Official or the Sandy City Treasurer's Office by 5:00 P.M on the thirty-first (31<sup>st</sup>) day of December (or the last business day of the year, whichever occurs first), the licensee must cease and desist all operations related to alcohol sales, and may not permit the consumption of alcohol on the premises until all outstanding fees, any applicable penalties and appropriate documentation is filed at the office of the License Official or the Sandy City Treasurer's Office and a new license is issued.

c. Renewal fees and all renewal documentation must be delivered to and received at the office of the License Official or the Sandy City Treasurer's Office within thirty (30) days after the expiration date (or as described in the Operations Policy Manual for Business License Receivables Manual). If the renewal fees and documentation are not received within thirty (30) days of the due date, the licensee shall pay a penalty of twenty-five percent (25%) of the original fees due in addition to the original fee and renewal documentation.

- d. If the renewal fees and all renewal documentation are not received at the office of the License Official or the Sandy City Treasurer's Office, within forty-five (45) days of the date that the fees are due (or as described in the Operations Policy Manual for Business License Receivables Manual), the licensee shall pay a penalty of seventy-five percent (75%) of the original fee due in addition to the original fee and renewal documentation.
- e. Single Event and Temporary Beer Event permits shall indicate specific expiration dates and are not subject to renewal.
- f. Every license and Local Consent issued under this chapter, with the exception of Single Event and Temporary Beer Event permits, granted to an establishment pursuant to the terms of this ordinance, shall be renewed only if the applicant can affirmatively state that the qualifications and standards as previously set forth and upon which the original license was granted shall have been and shall be complied with continually.
- g. All licensed premises shall also comply with the provisions of Title 5, general Business License Ordinances of Sandy City. (ord 16-42, Amended 1-26-2017)

#### **5-2-11. Fees.**

The amount of the fees required to obtain the licenses and identification cards set forth in this chapter shall be established by resolution of the City Council. (ord 16-42, Amended 1-26-2017)

#### **5-2-12. Bonds.**

##### **a. General.**

(1) Every applicant for a license or Local Consent under this chapter shall post a cash bond in the amount of two thousand dollars (\$2,000.00), which is to remain in effect during the entire period alcohol is sold or consumed on the premises. The bond is in addition to all other licensing fees and bonds.

(2) The cash bond shall be forfeited in the event of a violation:

- i. by the licensee or an employee of the licensee; and
- ii. related to the operation of the business for which the license was issued; and
- iii. of any laws or ordinances relating to any of the following: alcoholic beverages (except selling alcohol to a minor), controlled substances, gambling, committing or maintaining a nuisance, keeping a disorderly house, for grave offenses permitted on the licensed premises or if the license is revoked.

(3) After forfeiture of the two thousand dollar (\$2,000.00) cash bond, the licensee shall not sell or permit the consumption of alcohol on the premises until the City has received a new cash bond in the amount of five thousand dollars (\$5,000.00).

(4) The five thousand dollar (\$5,000.00) bond shall be forfeited according to subsection a.(2) of this section.

(5) After forfeiture of the five thousand dollar (\$5,000.00) bond, the licensee shall not sell or permit the consumption of alcohol on the premises until the City has received a new cash bond in the amount of ten thousand dollars (\$10,000.00). The bond must be posted within ten (10) days of the notice of forfeiture of the five thousand dollar (\$5,000.00) bond.

(6) The ten thousand dollar (\$10,000.00) cash bond shall be forfeited in accordance with subsection a.(2) of this section, and the City License Official will make a determination if the business license, alcohol beverage license or Local Consent should be suspended or revoked as described in section 5-2-16 of this Title.

(7) If the licensee is permitted to continue to operate an establishment to sell alcohol or allow the consumption of alcohol on the premises, after the suspension has expired or after reapplying for a license after a revocation, the licensee shall post a new ten thousand dollar (\$10,000.00) cash bond which is to remain in effect during the entire period alcohol is sold or consumed on the premises. Any additional violations will result in a revocation of Local Consent and may result in the revocation of the business license issued by Sandy City.

(8) The applicant may petition the City License Official for a reduction in the amount of the \$10,000.00 bond, after two years if there are no further violations by the licensee or an employee of the licensee related to the business for which the license was issued. In no case will the amount of the bond be reduced to an amount less than two thousand dollars (\$2,000.00).

(9) After forfeiting a bond, and prior to posting a new bond, the licensee shall present to the City License Official a plan concerning the operational practices to be implemented. The plan must specifically address the violation(s) for which the bond was forfeited.

(10) Failure of the licensee to post the bonds within ten (10) days after delivery of notice requiring the new bond may result in the suspension or revocation of the City issued licenses, including but not limited to the business license and Local Consent.

(11) The forfeiture of three (3) bonds posted pursuant to this section may result in the suspension or revocation of City-issued license, including but not limited to the business license and Local Consent.

(12) All monies received by the City from the forfeitures of bonds shall be deposited in an account to be used for alcoholic beverage enforcement purposes.

(13) Forfeiture of bonds will be in addition to any penalties as may be prescribed by the State of Utah.



b. Selling beer to a minor. In addition to the general cash bond required pursuant to this section, a separate cash bond shall be required if the licensee or any employee of the licensee violates any ordinance or law concerning the selling of beer to a minor.

(1) If any licensee herein or any employee of a licensee commits a violation of any ordinance or law concerning selling beer to a minor or comparable violation, the licensee, within ten (10) days of receipt of written notice from the City, shall post a cash bond in the amount of one thousand dollars (\$1,000.00).

(2) The cash bond for selling beer to a minor shall be forfeited in the event of a violation:

- i. by the licensee or the employee of the licensee; and
- ii. related to the operation of the business for which the license was issued; and
- iii. of any laws or ordinances relating to the selling of alcohol to a minor or comparable charge; and
- iv. within two (2) years of posting the bond.

(3) After forfeiture of the one thousand dollar (\$1,000.00) bond, the licensee shall, within ten (10) days after delivery of written notice from the City, post a new cash bond in the amount of two thousand five hundred dollars (\$2,500.00).

(4) The two thousand five hundred dollar (\$2,500.00) bond shall be forfeited according to subsection b.(2) of this section. City-issued licenses and Local Consent may be suspended for a period of ten to thirty days.

(5) Following the forfeiture of the two thousand five hundred dollar (\$2,500.00) bond, the licensee shall, within ten (10) days after delivery of written notice from the City, post a new cash bond in the amount of five thousand dollars (\$5,000.00).

(6) The five thousand dollar (\$5,000.00) cash bond shall be forfeited according to subsection b.(2) of this section and the City-issued licenses and Local Consent may be suspended or revoked in accordance with section 5-2-16 of this Title.

(7) After forfeiting a bond, and prior to posting a new bond, the licensee shall present to the City a plan concerning the operational practices to be implemented to avoid future violations of laws related to sales of alcoholic beverages to minors.

(8) If a licensee is required to post bonds for sale of alcohol to a minor or comparable violation, and if neither the licensee nor any employee of the licensee violates any ordinances or

laws related to selling alcohol to a minor or comparable violation within two (2) years following the posting of the bond, the most recently posted bond shall be returned to the licensee by the City upon receipt by the City of a written request and verification by the City that no such violations have occurred.

(9) Failure of the licensee to post the bonds within ten (10) days after delivery of notice requiring the new bond, may result in suspension or revocation of City-issued licenses including, but not limited to the business license and Local Consent.

(10) The forfeiture of three bonds posted pursuant to this section may result in the suspension or revocation of City-issued licenses including, but not limited to the business license and Local Consent.

(11) All monies received by the City from the forfeitures of bonds shall be deposited in an account to be used for alcoholic beverage enforcement purposes.

(12) Forfeiture of bonds for sale of alcohol to a minor or similar violation will be in addition to any penalties as may be prescribed by the State of Utah. (ord 16-42, Amended 1-26-2017)

### **5-2-13. Transfer of License.**

a. Licenses and Local Consent issued by the City pursuant to this chapter shall not be transferable to any other person or entity.

b. It shall be unlawful for any licensee to sell or transfer the business ownership, or otherwise cease operating the business without notifying the License Official and surrendering the license.

c. If the persons named on the licensee's most recent application on file with the License Official remain the same, a license or Local Consent issued pursuant to this chapter may be transferred to a new location upon approval of the License Official. Licensee shall pay the transfer fee as adopted by Resolution of the Sandy City Council, and all outstanding license fees. All current bonds, violations, penalties and tenure for bonds will also be transferred to the new location without interruption. The new location must be able to satisfy all Land Use ordinances, Utah Department of Alcoholic Beverage Control requirements, and all other business approval requirements. (ord 16-42, Amended 1-26-2017)

### **5-2-14. Issuance or Denial of License.**

A license or a Local Consent issued by the City under the provisions of this chapter shall not be considered or deemed a right and, if granted, shall inure to the benefit of the licensee only as a privilege temporarily granted. The City reserves the right to deny any application for a license or Local Consent described herein. If, on an application or a renewal for a license, the License Official finds that any applicant does not meet the requirements of or is disqualified under any section of this Chapter, or if the License Official finds that the application is deficient in any way

or any of the facts provided thereon are false or in question, the License Official shall deny the application. (ord 16-42, Amended 1-26-2017)

### **5-2-15. Suspension and Revocation of License.**

- a. Basis. Licenses, Local Consent or bonds may be suspended or revoked by the License Official for any of the following reasons:
- (1) Violation on the licensed premises of any provision of this chapter; or
  - (2) Violation of any other ordinance or law related to alcoholic beverages; or
  - (3) The licensee does not now possess the qualifications required by this title and the statutes of the State of Utah; or
  - (4) False or incomplete information given on an application; or
  - (5) The licensee has obtained or aided another person in obtaining a license by fraud or deceit; or
  - (6) The licensee has failed to pay real or personal property taxes, utility tax or sales tax; or
  - (7) Any illegal activity by the licensee or any employees of the licensee of any city ordinance or state or federal statute, except minor traffic offenses, while on the premises or relating to the business; or
  - (8) Failure to pay the license fee or post bonds when due; or
  - (9) Violation of city ordinance or federal or state statute relating to the business, alcoholic beverage, consumption, entertainment or agency licenses and resulting from the conduct of such business or activity; or
  - (10) The applicant has been convicted of or entered a plea of nolo contendere for:
    - (i) any felony involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor or any violent felony or has completed serving a sentence for such felony (whichever is most recent) within five years; or
    - (ii) a misdemeanor involving controlled substances, alcohol, sex crimes or contributing to the delinquency of a minor within three years.
  - (11) Any conduct or act of the licensee or his/her employees or any act committed by them on the premises or any act by the patrons where such business is conducted tending to render such business or such premises where the same is conducted a public nuisance or a menace to the health, peace or general welfare of the city or its inhabitants; or

(12) The licensee has refused to allow authorized representatives of the City to make an inspection or has interfered with such representatives while in the performance of their duty in making such inspection; or

(13) The licensee is not complying with a requirement or condition set by the Planning Commission or Community Development Department, if applicable, under a conditional use permit, site plan review or other approval if applicable, granting a variance or special exception; by the City Council; or by agreement; or

(14) Any other reason expressly provided for in this Chapter.

b. The licensee shall be responsible for the operation of the business in conformity with the ordinances of the City and the laws of the State and it shall be grounds for suspension or revocation of the license or Local Consent if a violation occurs through an act of a licensee, operator, employee, agent, or person who is allowed to perform for patrons of the business, whether or not said person is paid by the licensee for said performance, or any person who violates said ordinances or laws with the consent or knowledge of licensee or his agents or employees or operator of the business. (ord 16-42, Amended 1-26-2017)

#### **5-2-16. Denial, Suspension and Revocation of License – Applicant to be Heard.**

a. Notice of Denial Suspension or Revocation. The License Official shall cause written notice to be given to the applicant or licensee (“respondent”), of the License Official’s recommendation of denial, suspension or revocation of a City-issued license, Local Consent or bond forfeiture. The notice shall include:

- (1) the reason for the recommendation of denial, suspension, revocation or bond forfeiture; and
- (2) the respondent’s right to have a hearing concerning the License Official’s determination. Written notice shall be given by personal service or by registered mail or by mail, postage prepaid, to the address given by the respondent on the most recent application or renewal of the license.

b. Request for Hearing. A hearing may be requested by the respondent by filing a written request for hearing with the Mayor's Office within ten (10) working days of receipt of the notice of the recommendation for denial of any application, suspension or revocation of City-issued license or Local Consent, or bond forfeiture. The written request for hearing shall include a statement of reasons why the license or Local Consent should not be denied, suspended or revoked, or the bond should not be forfeited.

c. Hearing.

(1) The hearing shall be before the Mayor, or an administrative hearing officer designated by the Mayor, and shall be at a time, place and day set by the Mayor, but not later than twenty (20) working days after receipt of the written request for hearing.

(2) At the hearing the City shall present the reasons and evidence for the recommendation to deny, suspend, or revoke the license, Local Consent or forfeit the bond.

(3) At the hearing, the respondent shall have the opportunity to be represented by counsel, present evidence and witnesses and cross examine any of the City's witnesses.

(4) All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.

(5) Any oral or documentary evidence may be received, but the Mayor or the designated administrative hearing officer may exclude all privileged, irrelevant, immaterial or unduly repetitious evidence.

(6) If the recommendation for denial, suspension or revocation is based on a finding by the Community Development Department, Fire Department, Health Department or Police Department that the business was or would be in violation of applicable ordinances or regulations, then this determination shall be conclusive and the final decision may be based only on whether the City acted properly in recommending denial, suspension or revocation of the license or Local Consent or bond forfeiture because of the said department's determination.

(7) The Mayor or the designated administrative hearing officer, after hearing and considering all the evidence, shall:

- i. deny, suspend or revoke the license, Local Consent, or order the bond to be forfeited; or
- ii. approve or reinstate the license or Local Consent with conditions; or
- iii. approve or reinstate the license or Local Consent without conditions.

(8) The Mayor or the designated administrative hearing officer shall issue a written decision within ten (10) days after the hearing and send the same, by personal service or by registered mail, postage prepaid, to the respondent.

(9) In a hearing regarding suspension of a license or Local Consent, if good cause for the suspension is established at the hearing, the suspension order may be continued for up to one (1) year in duration.

(10) In a hearing regarding revocation, if good cause for the revocation of the license or Local Consent is established, the respondent may not reapply for a new license or request Local Consent for a minimum of one (1) year after the hearing officer's decision or final decision.

(11) The decision of the Mayor or the designated administrative hearing officer may be appealed by the respondent to the District Court within thirty (30) calendar days from when the written decision is made.

(12) If the respondent fails to file a request for a hearing within the prescribed date, the determination of the License Official shall be upheld and the denial, revocation, suspension or bond forfeiture shall be effective immediately. (ord 16-42, Amended 1-26-2017)

## **5-2-17. Application after Suspension or Revocation.**

a. A suspension shall be for a period not exceeding one (1) year.

- (1) After the expiration of the suspension period, the license or Local Consent may be reinstated, if the licensee otherwise complies with all licensing requirements.
- (2) If the license would have otherwise expired during the period of the suspension, the licensee will not be entitled to apply for a renewal license until after the period of suspension has expired and will be required to pay the full license fee.
- (3) Utah Department of Alcoholic Beverage Control will be notified by the License Official of a suspension and the suspension period.

b. A revocation shall be for a period of no less than one (1) year. Upon revocation of the license, the licensee shall forfeit to the City the following:

- (1) The remaining license fee paid; and
- (2) The bond posted to insure compliance with the law; and
- (3) Any bond posted as a result of sale of alcohol to a minor.
- (4) A licensee shall not be entitled to reapply for a new license or request Local Consent during the period of revocation.
- (5) Utah Department of Alcoholic Beverage Control will be notified by the License Official of the revocation and the revocation period.

c. If the licensed business is sold to a new party, not previously associated with the licensee who is under suspension or revocation, the new owner of the business may apply for and may be granted a new license under this chapter, notwithstanding the current revoked or suspended status of the former licensee. (ord 16-42, Amended 1-26-2017)

## **5-2-18. Wholesaler and retailer—Conflict of interest.**

a. It is unlawful for any dealer, distributor, brewer or wholesaler to either directly or indirectly supply, give or pay for any furniture, furnishings or fixtures of a beer or liquor licensee, unless the dealer, distributor, brewer or wholesaler has ownership interest in the establishment holding the beer or liquor license.

b. It is unlawful for any dealer, distributor or brewer to advance funds, money, or pay for any license of a retailer or to be financially interested, either directly or indirectly, in the conduct or operation of the business of any beer or liquor licensee, unless the dealer, distributor, brewer or wholesaler has an ownership interest in the establishment holding the beer or liquor license.

c. Exceptions to 5-2-18 are provided in the Tied House Prohibitions described in Title 32B of the Alcoholic Beverage Control Act. (ord 16-42, Amended 1-26-2017)

**5-2-19. Alcoholic beverage sales – Hours of operation.**

a. It is unlawful for any Off-Premise Beer Retailer to sell or dispose of beer to any person or patron on the licensed premises contrary to the hour of operation limits prescribed by the Sandy City Land Development Code, and in no case shall a licensee or any employee of the licensed premises sell, dispose of or give away beer between the hours of 1:00 AM and 7:00 AM.

b. It is unlawful for any other licensee as described in section of 5-2-6, or operator or any employee thereof, to sell, dispose of, give away or serve any alcoholic beverages to any person on the licensed premises contrary to the hour of operation limits prescribed by the Sandy City Land Development Code and the Utah Alcoholic Beverage Control Act.

c. It is unlawful for any establishment required to be licensed to sell or permit the consumption of alcohol, which is also required to be licensed as a sexually oriented business, to allow patrons on the premises or to operate the premises in any manner between the hours of 1:00 A.M. and 8:00 A.M.

**5-2-20. Alcoholic beverage sales—Nuisances prohibited.**

It is unlawful for any person licensed under this chapter to keep or maintain a nuisance, as defined in this chapter. (ord 16-42, Amended 1-26-2017)

**5-2-21. Alcoholic beverage sales—Prohibited to minors.**

a. It is unlawful to sell or in any way to provide alcoholic beverage(s) to any person under the age of twenty-one (21) years, or to allow minors on the premise of any licensee identified in section 5-2-6 that would be in violation of the Utah Alcoholic Beverage Control Act or this chapter.



- b. This section does not apply to the furnishing of an alcoholic product to a minor under the following circumstances:
  - (1) For medicinal purposes by:
    - (i) the parent or guardian of the minor; or
    - (ii) the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or
  - (2) As part of a religious organization's religious services.
- c. For violations related to underage sale of beer by an Off Premise Beer Retailer, the enforcement process set forth in the Utah Code Annotated, applies. The Chief of Police or designee shall conduct these enforcement proceedings.
- d. It is unlawful for any person under the age of twenty-one (21) years to purchase, consume, accept, or have in his or her possession any alcoholic beverage. This section does not apply to the acceptance of an alcoholic product by a minor under the following circumstances:
  - (1) For medicinal purposes if the alcohol is furnished by:
    - (i) the parent or guardian of the minor; or
    - (ii) the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or
  - (2) As part of a religious organization's religious services.

The provisions of this section prohibiting possession of beer shall not apply to persons under twenty-one years of age who are bona fide employees of a licensed Off-Premise Beer Retailer premises while in the discharge of their employment therein or thereabouts. (ord 16-42, Amended 1-26-2017)

## **5-2-22. Requirements for Employees and Entertainers.**

- a. Identification Cards. All employees in Taverns or Social Club licensed premises who handle, dispense or serve alcoholic beverages, managers, all bouncers, doormen or other security-type employees and all entertainers, except contract entertainers, before engaging in the duties of their employment in or on the licensed premises, shall register with the City Police Department upon a form to be provided by the department. They shall submit to finger printing and photographing by the Police Department. The Police Department shall provide each such person an identification card within a reasonable time, unless it finds one or more of the following:

- (1) The employee is under 21 years of age.
- (2) The employee is overdue in payment to the City of any taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to alcoholic beverages, alcoholic beverage establishments or employees and entertainers therein.
- (3) The employee has failed to provide information reasonably necessary for investigation and issuance of the license or has falsely answered a material question or request for information as authorized by this ordinance.
- (4) The employee has been convicted of a violation of a provision of this Chapter within two years immediately preceding the application. Appeal of a conviction shall have no effect on the denial.
- (5) The premises in which the employee is to be employed does not have a current valid business and alcoholic beverage establishment license.
- (6) The fees established herein have not been paid.
- (7) The employee is in violation of or not in compliance with this ordinance.
- (8) The employee has been convicted of or entered a plea of nolo contendere for any felony involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor or any violent felony or has completed serving a sentence for such felony (whichever is most recent) within five years or a misdemeanor involving controlled substances, alcohol, sex crimes or contributing to the delinquency of a minor within three years.
- (9) Said identification card must be made available and presented upon demand by the License Official while the employee is functioning as an employee on the licensed premises. A person registered under this Section, upon changing employment shall notify the City Police Department in writing of that fact.
- (10) Any person who is not issued an Identification Card may appeal to the Chief of Police, in writing, within fifteen days from the date of denial. If after review, the Chief of Police also denies the card or upholds the suspension or revocation, the applicant may then appeal to the Mayor in the manner set forth in this chapter.
- (11) Unless revoked or suspended, each identification card issued pursuant hereto shall remain valid for a period of two years. Identification cards must be renewed by the employee after the expiration of two years from the date of issuance by following the same procedure as established herein.

b. Training. Every employee of an establishment engaging in the serving, selling or furnishing of alcoholic beverages for consumption on the premises must complete the Alcohol Training and Education Seminar, as required by State law.

c. Age.

(1) In any Off-Premise Beer Retailer licensed under this chapter, all employees handling, selling or otherwise engaged in the retail sale of beer must be at least eighteen (18) years of age, and under the supervision of an employee of the establishment who is twenty-one (21) years of age or older, and who is located on the licensed premises at all times, unless otherwise regulated by law.

(2) With the exception of those employees of licensed premises indicated immediately above, in all other licensed premises, all employees handling, selling, serving or otherwise engaged in the retail sale of alcohol must be at least twenty-one (21) years of age.

d. Licensee Responsibility. It is the duty of the licensee of any license issued pursuant to this chapter, to verify that any person employed or entertaining on their premises is in compliance with these requirements. Any licensee that permits a violation of this section either personally or through his agents, employees, officers or assigns shall be subject to suspension or revocation of his/her license. (ord 16-42, Amended 1-26-2017)

**5-2-23. Illegal Sale, Manufacturing, Storage, Etc. of Alcoholic Beverages.**

It shall be unlawful for any person, except as provided by this chapter or Utah State statute, to knowingly have in his/her possession any alcoholic beverage, or to manufacture, sell, offer, import, carry, transport, advertise, distribute, give away, dispense or serve any alcoholic beverage. (ord 16-42, Amended 1-26-2017)

**5-2-24. Possession of Liquor.**

It shall be unlawful, except as provided by this chapter or state statute for any licensee to have or keep for sale or possess any liquor which has not been purchased from a State Liquor Store or package agency. (ord 16-42, Amended 1-26-2017)

**5-2-25. Taking Liquor Unlawfully.**

It shall be unlawful, except as provided by city ordinance or state statute for any person within the City, by himself, his clerk, employee, or agent to attempt to purchase, directly or indirectly or upon any pretense or upon any device, to purchase or in consideration of the sale or transfer of any property, to take or accept any alcoholic beverage from any other person. (ord 16-42, Amended 1-26-2017)

**5-2-26. Adulterated Alcoholic Beverage.**

It shall be unlawful for any person, for any purpose whatever, to mix or permit or cause to be mixed with any alcohol beverage offered for sale, sold or supplied by him/her as a beverage, any controlled substance or any form of methyllic alcohol or any crude, unrectified or impure form of ethylic alcohol or any other deleterious substance or liquid. (ord 16-42, Amended 1-26-2017)

**5-2-27. Sale of Alcoholic Beverage to Intoxicated or Interdicted Persons.**

a. It shall be unlawful for any person to sell, give or supply any alcoholic beverage or to permit any alcoholic beverage to be sold or supplied to any person under or apparently under, the influence of an alcoholic beverage or interdicted from possessing or consuming alcoholic beverages.

b. It shall be unlawful for any person to:

(1) Permit drunkenness to take place in any herein licensed premises, by the owner, licensee or employee; or

(2) Permit or suffer any person apparently under the influence of an alcoholic beverage to consume any alcoholic beverage in any herein licensed premises, by the owner, licensee or employee. (ord 16-42, Amended 1-26-2017)

**5-2-28. Canvassing and Soliciting Prohibited.**

It shall be unlawful for any person to canvass or solicit orders for alcoholic beverages by mail, telephone, or any other manner and said person is hereby prohibited from engaging in said activities except to the extent that such prohibition may be in conflict with the laws of the United States or the State of Utah. (ord 16-42, Amended 1-26-2017)

**5-2-29. Unlawful Importation and Transportation.**

It shall be unlawful for any person to order or purchase or to ship or transport or cause to be transported into Sandy City or from one place to another within Sandy City any alcoholic beverages or to sell or furnish any alcoholic beverage to any person within Sandy City when such alcoholic beverage is intended by any person interested therein to be received, possessed, sold or in any manner used in violation of the law. (ord 16-42, Amended 1-26-2017)

**5-2-30. Aiding or Abetting.**

It shall be unlawful for any person to aid, abet, counsel or procure any unlawful sale, unlawful purchase, unlawful gift or other unlawful disposition of alcoholic beverages, or to act as agent or representative of the seller in procuring or effecting unlawful sale or purchase of any alcoholic beverages. Nothing in this chapter shall be construed as prohibiting any person from purchasing alcoholic beverages contrary to the provisions of this act when acting as the agent of the authorities charged with the enforcement of this act in the detection and conviction of violators. (ord 16-42, Amended 1-26-2017)

**5-2-31. City Park Restrictions.**

It is unlawful for any person to consume any beer or liquor upon the premises of any park owned or operated by Sandy City. (ord 16-42, Amended 1-26-2017)

**5-2-32. Consumption prohibited in unlicensed premises.**

It is unlawful for any person to consume any alcoholic beverage in any public place, that has not been provided with the necessary licenses and permits as required by this chapter and the Utah Department of Alcoholic Beverage Control. (ord 16-42, Amended 1-26-2017)

**5-2-33. Premises—Inspection.**

The Sandy City Police Department, local code enforcement officials, Fire Department officials, Planning Department officials, Building and Safety Department officials and the License Official shall be permitted to have access to all premises licensed or applying for licenses under this chapter, and they shall make periodic inspections of such premises and report their findings to the Mayor. Said inspections by local law enforcement agency may be made with or without prior notice and in uniform or plain clothes. (ord 16-42, Amended 1-26-2017)

**5-2-34. Enforcement.**

A violation of any provision of this chapter shall be a class B Misdemeanor.  
(ord 16-42, Amended 1-26-2017)

**5-2-35. Severability.**

If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, or provisions hereof which can be implemented without the invalid section or provision. To this end, the provisions and sections of this chapter are declared to be severable. (ord 16-42, Amended 1-26-2017)

**Chapter 3 REPLACED BY NEW CHAPTER 2**

**Chapter 4 ENTERTAINMENT ARCADES AND DEVICES**

**5-4-1. Purpose.**

The City Council of Sandy City has determined, based upon concerns expressed by parents and residents of the community, that the regulation of arcades and entertainment devices will be

beneficial to the peace, safety and welfare of the residents of Sandy City.

#### **5-4-2. Definitions.**

For the purposes of this chapter, the following words shall have the meanings as defined herein:

- (a) "Arcade" means any business establishment which has 5 or more amusement devices.
- (b) "Amusement device" means any amusement machine or device, whether mechanically or electronically operated, by means of the insertion of a coin, token or similar object, for the purpose of amusement or skill and for the play of which a fee is charged, or a device similar to any such machine or device but which has been manufactured, altered or modified so that operation is controlled without the insertion of coin, token or similar object. The term does not include coin operated phonographs, ride machines designed primarily for the amusement of children or vending machines in which are not incorporated features of chance or skill.
- (c) A "musical device" means a music box or other device, the purpose of which is to furnish music for the entertainment of the patrons or guests of said place of business, which box or device, whether mechanically or electronically operated, operates by means of the insertion of a coin, token or similar object and shall include any box or device which has been manufactured, altered or modified so that the operation is controlled without the insertion of a coin, token or similar object.

#### **5-4-3. License Required.**

- (a) It shall be unlawful for any person to operate within Sandy City an arcade without first having obtained a license therefor.
- (b) It shall be unlawful for any person to have or maintain in any place of business in Sandy City an amusement device or a musical device without first obtaining from the City a license for said device.

#### **5-4-4. Fees.**

The amount of the fees required to obtain the licenses as set forth in this chapter shall be established by resolution of the City Council.

#### **5-4-5. Maximum Number of Machines.**

No arcade or other business establishment shall have or maintain any amusement device or musical device without first complying with the provisions of the Life Safety Code as adopted by Sandy City.

#### **5-4-6. Compliance with Chapter.**

- (a) It shall be the duty of any person or business having an amusement device or musical device to assure compliance of the business establishment with the terms

of this chapter.

- (b) All persons or businesses having amusement devices will have, during the hours of operation, a person designated as the responsible party on the premises and available upon request. The Chief of Police may require arcades to provide attendants and/or uniformed security guards. All responsible persons, attendants and guards shall be 18 years or older.

#### **5-4-7. Limitation on Age.**

It shall be unlawful for any licensee to permit, suffer or allow any student under the age of 18 years to use or operate any amusement device or musical device located in or upon the licensed premises during the hours from 9:00 a.m. to 2:30 p.m. during such time as public, elementary, middle or high schools are in session.

#### **5-4-8. Gambling Prohibited.**

Nothing in this chapter shall in any way be construed to authorize, license or permit any gambling device whatsoever or any other illegal device to be allowed upon any licensed premises.

#### **5-4-9. Hearing Prior to Suspension or Revocation of License.**

- (a) The Mayor may suspend, revoke or refuse to renew any license issued under the terms of this chapter for any of the following causes:
  - (1) Fraud or misrepresentation in its procurement.
  - (2) Violation or failure to comply with all of the provisions of this chapter.
  - (3) Upon failure to pay any license fee levied when due.
  - (4) Upon the violation of any city ordinance, state or federal statute involving moral turpitude.
  - (5) Any conduct or act of the licensee or his employees or any act permitted by him or them on the premises where such business is conducted tending to render such business or such premises where the same is conducted a public nuisance or a menace to the health, peace or general welfare of the City.
  - (6) A violation of city ordinance or federal or state statute relating to the business or activity licensed and resulting from the conduct of such business or activity.
  - (7) For good cause shown.
- (b) Hearing.
  - (1) Before the Mayor shall suspend, revoke or refuse the renewal of any license, he shall first afford the licensee an opportunity in a hearing to show good cause why such license should not be suspended, revoked, or why such license should be renewed.
  - (2) The licensee shall be given notice of such hearing, which notice shall indicate the time, place and date of such hearing; statement of the purpose of such hearing; and a reasonably definite statement setting forth the causes, grounds or basis or any complaint. Such notice shall either be personally served on or



- mailed to the address of the licensee indicated in his last application filed, at least ten (10) days before the date fixed for the hearing.
- (3) At the hearing, the licensee or applicant shall have the right to appear personally and/or by counsel; to cross-examine witnesses appearing; to produce evidence and witnesses in his behalf.
  - (4) After such hearing, on due deliberation, the Mayor shall notify the licensee of his findings and determination.

## **Chapter 5 SWAP MEETS AND FLEA MARKETS**

### **5-5-1. Definition.**

A swap meet licensee is any person who rents, lends or leases his premises to temporary sellers for use as a market place to barter and exchange goods. A "flea market" shall be considered a swap meet.

### **5-5-2. License Required.**

It shall be unlawful for any person, firm, corporation, or charity to hold a swap meet or flea market without having first obtained a license therefor as is herein provided. The license fee may be waived as provided in Section 5-1-14.

### **5-5-3. Application - Investigation.**

Application for a swap meet license shall be made to the City Recorder and shall state thereon the name of the applicant, the place of business, the nature of the business, the place of residence of the applicant, the applicant's date of birth, and the number of employees intended to be engaged. The Chief of Police shall investigate each applicant for such license and shall report to the City Recorder whether or not such applicant is a person who has been convicted of the offense of receiving stolen goods or of burglary, larceny, or robbery, and the license of any swap meet licensee so convicted shall be revoked.

### **5-5-4. Fee.**

The annual fee for a swap meet license shall be that prescribed in Section 5-1-6.

### **5-5-5. Right to Issue Daily Business License Permits.**

A swap meet licensee shall have the right to issue daily business license permits to sellers upon receiving the required \$1.00 per-sale-day fees and the signed, certified license applications listing the goods to be sold or exchanged. It shall be unlawful for any swap meet licensee to fail to deliver on the day of application to the Sandy City Police Department a legible and accurate copy of the records required under this ordinance with the seller's daily business license permit fee.

### **5-5-6. Records.**

Every swap meet licensee doing business in the City shall keep a record of all sellers wishing to utilize his premises. This record shall contain:

- (a) A description of the seller, including:
  - (1) Name, including middle initial
  - (2) Address
  - (3) Sex
  - (4) Nationality
  - (5) Height
  - (6) Weight
  - (7) Color of hair
  - (8) Color of eyes
  - (9) Driver's license number and State of Issue
  - (10) Occupation
- (b) A description of the seller's vehicle including:
  - (1) Make
  - (2) Model
  - (3) Year
  - (4) Color
  - (5) License number and State
  - (6) Registered owner if different than person offering articles for sale or exchange;
- (c) A description of articles offered for sale, including:
  - (1) Name of article
  - (2) Size
  - (3) Color
  - (4) Serial number or ID mark
- (d) The number of a seller's sales tax permit, if any.
- (e) The number of a seller's daily business license permit.
- (f) The date a seller has applied to sell on.

### **5-5-7. Seller's Application for License and Fee.**

All sellers shall apply for a license to sell on the premises of a swap meet licensee. Along with the fee of \$1.00 per sale day, each seller must furnish to the swap meet licensee a signed statement containing the required information outlined in this ordinance along with the certification:

*"I certify that I am the lawful and legal owner of the listed property which is free and clear from all liens and encumbrances. I further certify that the property descriptions are true and correct and I am aware that the use of a fictitious name or furnishing false information on this form is punishable by law. I am also aware that a copy of this application shall be forwarded to the Sandy City Police Department within 24 hours after it is submitted to the owner or manager of the premises where the sale is held."*

Upon receiving the required fee and certified application form, the swap meet licensee shall furnish to the seller a daily business license permit which will allow the seller to sell on the day requested, subject to revocation by an authorized representative of Sandy City.

**5-5-8. Time of Sales.**

Resident Sellers must apply for a daily business license permit at least seven (7) days in advance of the day they wish to utilize a swap meet licensee's premises. Nonresident sellers must apply for a daily business license permit at least fourteen (14) days before the date they wish to utilize a swap meet licensee's premises. The swap meet licensee shall employ, at his own expense, a uniformed Police Officer, during the conduct of the swap meet, which officer shall enforce the provisions of this ordinance in conjunction with the Sandy City Police Department. For purposes of this ordinance, a resident is deemed to be a person or entity either domiciled or qualified to do business in the State of Utah.

**5-5-9. Sales Subject to Law.**

All sales shall be in accordance with law. No sales of alcoholic beverages or medicines shall be made without obtaining the required permits or licenses under State statute.

**5-5-10. Ordinances Posted.**

It shall be unlawful for any person to conduct a swap meet unless he shall keep conspicuously posted in his place of business copies of this ordinance and Section 27-38-2, Utah Code Annotated, dealing with lost property converted by a finder.

**5-5-11. Lists of Lost or Stolen Property.**

The Sandy City Police Department shall circulate a list of reported lost and stolen property to all swap meet licensees.

**5-5-12. Stolen Goods.**

It shall be the duty of every swap meet licensee to report to the Sandy City Police Department any article he has reason to believe was stolen, or lost and found by the person attempting to sell it.

**5-5-13. Penalties.**

In addition to other penalties provided by law, any person violating the provisions of this chapter shall be guilty of a misdemeanor. No seller shall be deemed to have substantially complied with these provisions if:

- (a) he fails to list all property proposed to be sold or exchanged, or
- (b) he fails to list the correct serial number or identifying mark(s) of said property; or
- (c) he gives false information as to his identity or the property's identity even though such information is not specifically required by this chapter.

**5-5-14. Liability of Principal.**

The holder of a swap meet license is liable for any and all acts of his employees, and for

any violation by them of the provisions of this ordinance.

#### **5-5-15. Revocation of License.**

In addition to other penalties provided by law, any swap meet licensee violating the laws and ordinances of Sandy City may have his license revoked or suspended.

#### **5-5-16. Pawnbrokers and Secondhand Dealers.**

No swap meet licensee shall conduct the business of pawnbroker or secondhand dealer without having obtained the licenses required for such dealers in addition to his swap meet license.

### **Chapter 6      ITINERANT MERCHANTS –Repealed 9/21/2004, Ord. 04-39**

### **Chapter 7      PUBLIC DANCE HALLS**

#### **5-7-1. Public Dance Hall Defined.**

- (a) The term "public dance" as used in these ordinances shall mean any dance to which admission can be had by payment directly or indirectly of a fee or any dance to which the public generally may gain admission with or without the payment of a fee.
- (b) The term "public dance hall" as used herein shall mean any room, place, or space in which a public dance shall be held or in which classes in dancing are held.
- (c) The word "person" shall mean and include natural persons, co-partnerships, corporations and associations and shall include members of both sexes.
- (d) The term "non-public dances" shall mean dances conducted and sponsored by a public or private school, church or other organization for the benefit of the students or members thereof, even though an admission fee may be charged, and dances conducted in private homes on a private basis, and such dances shall not be deemed to be public dances and shall be exempt from the licensing provisions of this chapter.

#### **5-7-2. Public Dance Halls to be Licensed.**

- (a) It shall be unlawful to hold or conduct any public dance in any public dance hall or other place within the limits of the City until such dance hall or other place in which the same may be held shall first have been duly licensed.
- (b) No license for a public dance shall be issued until it shall be found that the place for which it is issued complies with and conforms to all laws, ordinances, health and fire regulations applicable thereto and is properly ventilated and supplied with separate and sufficient toilet facilities for each sex and is a safe and proper place for the purpose for which it shall be used. Every person to whom a dance hall license is issued shall post the same in a conspicuous place in the dance hall covered by such license.

- (c) The City Council shall have, pursuant to the provisions of this ordinance and the general police power, the authority to establish such rules and regulations as may be necessary for the proper operation of a public dance hall within the City and shall publish and establish any such rules and regulations in order to properly protect the health, welfare and safety of the residents of the City.
- (d) The license fee for a license issued pursuant to the provisions of this chapter shall be in such an amount as may be set forth by resolution of the Sandy City Council.
- (e) No license issued under the provisions of this chapter shall be transferable.

#### **5-7-3. License May be Revoked.**

- (a) The license of any public dance hall may be revoked upon the violation of any provisions of this or any other ordinance, law, rule or regulation promulgated thereunder as may relate to such public dance hall.
- (b) In the event that any such license is revoked, no new license shall be issued nor shall a previous license be renewed until the applicant therefor shall have submitted a new application and complied with each and every provision of the application procedure as it applies to the provisions of this chapter.
- (c) If at any time the license of a public dance hall shall be revoked, at least three months shall elapse before another license or permit shall be granted to the manager, owner or lessee of such dance hall and such renewal of a business license shall be granted only after a public hearing before the City Council.

#### **5-7-4. Dance Hall Permitted in Certain Zones.**

- (a) A public dance hall or a public dance shall be a permitted use in the City-Center Zone and the Highway-Commercial Zone. Such use shall be subject to all provisions of this chapter and to all other applicable provisions of the Sandy City Ordinances.
- (b) A public dance hall and public dance shall be a conditional use in the Community-Commercial Zone, the C-3 Zone, and C-2 Zone. No permit or license shall be issued pursuant to the provisions of this chapter in any of the just previously mentioned zones until such time as such use shall have been approved by the Sandy City Planning Commission and the Sandy City Council.
- (c) A public dance hall or a public dance shall not be permitted in any other zone than those mentioned in subsection (a) and subsection (b) of this section.

#### **5-7-5. Unlawful to Permit Indecent Acts in Public Dance Hall.**

It shall be unlawful for any person to whom a public dance hall license is issued or for any person conducting a public dance hall or public dance under permit from the City to allow or permit in any dance hall any indecent act to be committed or any disorder or conduct of a gross, violent or vulgar character. Any member of the Police Department or other properly constituted authority shall have the power and the duty to cause any public dance hall to be vacated whenever any provision of this ordinance, regulation or law concerning public dance halls has been or is being violated or wherein any ordinance, regulation or law of any character shall be violated, or whenever any indecent act shall be committed or when any disorder or conduct of a

gross, violent or vulgar character shall take place therein.

**5-7-6. Minimum Space Requirements.**

No license shall be issued to a public dance hall unless there shall be at least 300 square feet of suitable dancing area in the licensed premises, such area to be in addition to the walkways, seating area and other areas not designed nor used for dancing. This section shall not pertain to those areas contained within a dance studio that may be used solely for dance instruction at all times and never for other public dancing.

**5-7-7. Unlawful to Permit Persons Under Sixteen Years of Age in Public Dance Halls.**

- (a) It shall be unlawful to permit any person who has not reached the age of sixteen years to attend any public dance or remain in any public dance hall, unless such person be accompanied at all times by his parent or legal guardian. It shall be unlawful for any person to represent himself to have reached the age of sixteen years in order to attend any public dance or remain in any public dance hall when he in fact is under sixteen years of age, and it shall be unlawful for any person falsely to represent himself to be a parent or legal guardian of any person in order that such person may attend any public dance or remain in any public dance hall.
- (b) The provisions of subsection (a) as above set forth shall not apply to a "matinee" dance held upon a licensed premises. A "matinee" dance shall be a dance which shall conclude no later than 6:30 p.m. of the day upon which said dance was first begun and all participants of the said "matinee" dance shall be required to leave the licensed premises prior to the resumption of the regular business activities of those licensed establishments. A "matinee" dance may be attended by persons no younger than twelve years of age and all other provisions of this chapter and other ordinances of this City shall be enforced and remain in effect.

**5-7-8. Unlawful to Permit Dancing After 1:00 A.M.**

It shall be unlawful for any person to conduct or maintain any public dance or public dance hall or, having charge or control thereof, to conduct, carry on or permit any dance or dancing therein between the hours of 1:00 a.m. and 6:00 a.m. of any day or upon any Sunday. It shall be the duty of any licensee hereunder to post in a conspicuous manner and place the curfew laws of the State of Utah and of Sandy City so as to give notice to persons frequenting a public dance or public dance hall of the existence thereof.

**5-7-9. Pass-out and Return Checks not Allowed.**

No pass-out or return checks shall be issued for use by persons who leave the public dance hall or its ante-rooms and all persons leaving the public dance hall or its ante-rooms shall be required to pay the regular admission fee in case of return to such public dance hall. Each public dance hall must be under such control of the management thereof that this section may be reasonably complied with.

#### **5-7-10. Prohibited Activities.**

It shall be unlawful:

- (a) For any person to bring, possess, or consume, any beer or other alcoholic beverage in or upon premises licensed under the provisions of this chapter.
- (b) For any person to bring, possess, use or consume any controlled substance, as defined by the laws of the State of Utah and the ordinances of Sandy City, in or upon premises licensed under the provisions of this chapter.
- (c) For any person to smoke any cigarette, pipe, or other tobacco in or upon premises licensed under the provisions of this chapter unless such cigarette, pipe, or other tobacco is smoked in an area designated and specifically constructed for that purpose. It shall be the duty of any operator of any dance hall or public dance to assure that all provisions of the laws of the State of Utah and ordinances of Sandy City are followed up with regard to the smoking of cigarettes, pipes or other tobacco.

#### **5-7-11. Inspections of Dance Halls.**

- (a) The Police Chief shall designate some member of his department or other suitable person to examine each application to determine whether or not the public dance hall sought to be licensed conforms with the regulations, ordinances and laws applicable thereto. The findings of such inspection shall be made in writing and shall be accompanied by a recommendation. Inspectors, including personnel from the Police and Fire Departments, shall be permitted to have access to all public dance halls, and all public dances at all times and shall investigate complaints and shall inspect the said premises at least once every three months. Inspectors shall be charged with the enforcement of this ordinance and shall have, when desired, the assistance of any department of the government of the City in performing any of the duties delegated by this chapter.
- (b) The licensee shall pay to the City the sum of Seventy-Five Dollars (\$75.00) for such inspections, such inspection fee to be in addition to any license fees as may be required under this chapter or by other provisions of the ordinances of this City.

#### **5-7-12. Prohibition as to Advance Ticket Sales.**

It shall be unlawful for any operator, licensee or owner of any public dance hall located in Sandy City to sell, transfer or otherwise convey any ticket, pass, coupon or other evidence of admission to a public dance or a public dance hall in advance of the specific date upon which such admission shall be allowed. No "season pass" or other such admission for more than one specific date shall be sold, transferred, or conveyed.

#### **5-7-13. Dance Halls to be Lighted.**

It shall be unlawful for any person conducting or maintaining a public dance hall or public dance to conduct any dance or dancing after sunset of any day unless the hall be lighted in such a manner as to measure at least one candle power at a distance of five feet above the level



of the floor before any person is admitted thereto and before any dance or dancing is commenced therein, and such lighting shall be maintained thereafter without diminution and without interruption throughout the entire time while such dance or dancing is in progress and until such dancing is concluded and such hall is cleared and closed.

**5-7-14. Adequate Supervision Required.**

Any owner, licensee, or operator of a public dance hall or public dance in Sandy City shall be required to provide adequate supervision of any activity which shall take place pursuant to the privilege granted by a license issued under the provisions of this chapter. In the event that any such owner, licensee or operator does fail to provide such supervision, such failure shall be considered as good cause for revocation of a license granted under the provisions of this chapter.

**5-7-15. Walkathons Prohibited.-REPEALED February 28, 2013, Ord. 13-07**

It shall be unlawful for any person to conduct or maintain any walkathon, marathon, or any other exhibition of human endurance to which the public is admitted as spectators and it shall be unlawful for any person to attend any walkathon, marathon or any other exhibition of human endurance conducted in connection with the license issued pursuant to the provisions of this chapter.

**5-7-16. Application for License; Issuance of Permit.**

- (a) Any person desiring a license to keep or conduct a public dance hall or public dance shall make application to the City Recorder who is authorized to issue a license and permit only after investigation and recommendation as set forth in Section 5-7- 10. In the event that any such application receives an adverse recommendation with regard to the issuance of such license, no license or permit shall be issued unless and until the City Council shall, after a public hearing thereon, order such license and permit to be issued.
- (b) In addition to any other investigation or inspection as may be required hereunder, the applicant shall submit to the City the name, address and birth date of all owners, employees, and other persons associated with the public dance hall for which the license is being requested. Such information shall then be given to the Chief of Police who shall inform the office of business regulation as to whether or not any such employee, owner, or other person connected with the public dance hall shall have a record of conviction of an offense involving a controlled substance, of an offense involving alcoholic beverages, or of any offense involving moral turpitude.
- (c) In the event that any owner, licensee or operator of any public dance hall which is the subject of a license application under the provisions of this chapter shall be found to have been convicted within the just previous ten years of any offense involving a controlled substance, alcoholic beverages, or moral turpitude, the application of which the said person is a party shall be denied.

**5-7-17. Notice and Hearing Required Before Revocation.**



- (a) No license issued under the provisions of this chapter shall be revoked nor any application for license under the provisions of this chapter be denied, except after notice to and hearing of the said license or applicant.
- (b) If at any time a license under the provisions of this chapter is denied or revoked, it shall thereafter be unlawful for any person to operate, open, maintain, manage or conduct any public dance or public dance hall at the same premises until a new license shall be granted by the City.
- (c) No provision of this section or other provision of this ordinance shall prohibit the City and its duly authorized officials from taking such action as may be deemed by them to be necessary for the preservation of the public health, safety and welfare.

## **Chapter 8      COUPONS, COUPON BOOKS AND DISCOUNT CARDS**

### **5-8-1.      Coupons, Coupon Books or Discount Cards. License Required.**

It shall be unlawful for any person, either by telephone, door-to-door solicitation or in any other manner, to sell or attempt to sell or to otherwise dispose of or distribute coupons, coupon books containing coupons or discount cards for valuable consideration which are exchangeable in whole or in part for services, tickets, admissions, goods, wares or merchandise without being licensed to do so.

### **5-8-2.      Application.**

Each person desiring a license under this chapter shall make application therefor to the City Business Licensing Office and shall state thereon his name and business address and the name, address and social security number of every person employed by the applicant in this City who attempts or shall attempt to sell or otherwise dispose of coupons, coupon books or discount cards and such other information shall be included as may be required by the Business License Office to enable it to properly enforce the provisions of this chapter. Such information shall include, but not be limited to, a review by the City Attorney of the coupons, coupon book or discount card, and of the contracts upon which the said coupons, coupon book or discount card is based.

### **5-8-3.      License Fee.**

The license fee for a license required by this chapter shall be established by resolution of the Sandy City Council.

### **5-8-4.      Bond and Notice Required.**

- (a) At the time application is made for a license, the applicant shall file with the City Treasurer:
  - (1) A cash bond for two thousand dollars (\$2,000), or

- (2) A corporate surety bond issued by a corporate surety authorized to do business in the State of Utah in the sum of \$2,000.

The bond shall run to Sandy City and to any person injured or damaged by reason of any misrepresentation, fraudulent act or failure to perform as promised on the part of any person involved in the sale, distribution or redemption of coupons, coupon books, or discount cards.

- (b) Each coupon, coupon books and discount cards sold or distributed under the provisions of this chapter shall have clearly printed thereon its expiration date, if any, or if none, an affirmative statement so stating.
- (c) All coupons, coupon books or discount cards sold or distributed under the provisions of this chapter shall have clearly printed upon the said coupon book or discount card or attached to individual coupons a statement that said coupons, coupon book or card is covered by a bond on file with Sandy City, detailing the person and acts covered by said bond as described in this section.
- (d) Any person making a claim upon a cash bond filed with the City shall submit in writing a statement of the claim, which statement shall be investigated by the Legal Department and a recommendation made as to whether or not payment should be made out of the funds held by the City on the bond. After such recommendation has been made, the City Council shall make a determination as to the City's response to the claim so made and any such determination by the City Council shall be final.
- (e) All cash bonds shall be held for a period of one year beyond the expiration date of the last coupon contained in the coupon book, or, if there is no expiration date, for a period of five years; said cash shall be deposited in the treasury of Sandy City and no interest shall be paid thereon by the City to the depositor.
- (f) No corporate surety bond shall be cancelled prior to the 31st day of December of the year in which the last coupon or card expires.

#### **5-8-5. Replacement of Employee.**

If any person employed by the applicant or licensee of a coupon book license under this chapter is replaced by another person, the applicant or licensee shall immediately furnish the City Business License Office with the name, address and social security number of the replacement employee, together with sufficient evidence that such replacement employee is covered by the bond required by the preceding section.

#### **5-8-6. Coupon Sales by Charitable Organizations.**

None of the above provisions relating to coupon sales shall apply to religious, eleemosynary, charitable or non-profit fund-raising organizations, provided that a coupon, coupon book or discount card so distributed by such group or organization shall have been licensed in accordance with the provisions of this chapter.

#### **5-8-7. Distribution to Charitable Organizations.**

Every person holding a valid coupon book license who distributes coupon books or coupons or discount cards to charitable or civic groups shall maintain records which shall include

the name and responsible party and the number of coupons or coupon books or cards distributed, consigned or sold to each such charitable organization. Said record shall be available for inspection and audit by the City Business License Department or the City Recorder at any time upon request.

#### **5-8-8. Revocation of License.**

The City Recorder shall, upon reasonable notice and after hearing and other procedures as set forth in Chapter 1 of this title, be empowered to revoke the coupon book license of any person who shall violate any of the provisions of this chapter.

#### **5-8-9. Penalty.**

- (a) It shall be unlawful, and punished as a class B misdemeanor, for any person or agent of any person to conduct business in Sandy City prior to being issued a license to do so.

**Chapters 9, 10, 11 AND 12 REPLACED BY NEW CHAPTER 2 IN 1988.**

### **Chapter 14 AUCTIONEERS AND AUCTIONS**

#### **5-14-1. Limit of Scope of Chapter.**

The provisions of this chapter shall not be applicable to auction sales conducted by trustees or referees in bankruptcy, executors, administrators, receivers, or other public officers acting under judicial process, nor to the sale of real property at auction, nor shall it apply to any auction held for charitable or benevolent purposes or for any church, fair, festival, or bazaar, nor to an auction wherein the general public is not invited nor permitted to participate as bidders, and where the bidding is restricted to wholesalers or retailers purchasing for resale.

#### **5-14-2. Definitions.**

For the purpose of this chapter, the following words shall have the meanings as defined in this section.

- (a) Auctioneer. "Auctioneer" is any person who conducts a public competitive sale of property by outcry to the highest bidder.
- (b) Auction house. "Auction house" shall mean a permanent place of business where auctions are conducted and personal property sold at auction.
- (c) Transient auction house. "Transient auction house" shall mean any place, whether indoors or outdoors, located within Sandy City, where any goods, wares, merchandise or articles of value are offered at auction and which is neither the

permanent place of business for auction sales nor a permanent business which has an auction sale to dispose of its inventory, furnishings and business equipment as it goes out of business.

#### **5-14-3. Compliance Required for Auction Sales.**

No personal property (goods, wares or merchandise) shall be sold at auction in Sandy City, Utah, except in compliance with the provisions of this chapter.

#### **5-14-4. Auctioneer's License Required.**

It shall be unlawful to sell or cause or permit to be sold at auction, any personal property (goods, wares, or merchandise) in Sandy City, Utah, unless such sale is conducted by an individual who has obtained an auctioneer's license from the License Department of Sandy City.

#### **5-14-5. Application for Auctioneer's License.**

The form on which application shall be made for an auctioneer's license shall require the following information:

- (a) Name of applicant.
- (b) Residence and business address of the applicant.
- (c) The length of time for which an auctioneer's license is desired.
- (d) A statement as to whether or not the applicant holds, or has held, an auctioneer's license from any state, municipality, governing body of licensing authority; a list of such licenses, not to exceed 5 of the most recent licenses, and a statement of the time, place and by whom issued; a statement as to whether any state, municipality, governing body or licensing authority has ever refused to issue or renew an auctioneer's license to the applicant together with a full and accurate statement as to the reasons for any such refusal; and a statement as to whether any state, municipality, governing body or licensing authority has ever revoked an auctioneer's license held by the applicant together with a full and accurate statement as to the reasons for any such revocation.
- (e) A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor, or violation of any municipal ordinance, and if so, the nature of the offense and the punishment or penalty assessed therefor.
- (f) The names of at least two reliable property owners of the County of Salt Lake, State of Utah, who will certify as to the applicant's good moral character and business responsibility, or in lieu of the names of references, any other available evidence as to the good moral character and business responsibility of the applicant as will enable an investigator to properly evaluate such moral character and business responsibility, except that the City License Department may waive this requirement with respect to an applicant for renewal of an auctioneer's license by an individual holding an unexpired auctioneer's license issued under this chapter who has in a previous application under this chapter complied with this requirement.

#### **5-14-6. Inventory of Sale Articles.**

At least fifteen days prior to every auction, a true and correct inventory of items to be sold shall be filed with the License Department of Sandy City. Said inventory shall:

- (a) List the articles proposed to be sold at sale by auction;
- (b) Give any identifying numbers or marks which may be upon the said articles to be sold;
- (c) Indicate opposite the description of each article whether the same is new or used; and
- (d) List each of the said articles described in said inventory with a number; provided, however, that no article need be listed in the said inventory which has a retail value of less than \$5.00. Upon receipt of said inventory, it shall immediately be forwarded to the Police Department for investigation to establish insofar as possible that the property therein listed is not contraband or otherwise illegal for sale. After said investigation, the police shall issue a written report to the License Department within ten (10) days after receipt of the inventory. It shall be unlawful to sell at auction any item not listed on the inventory as set forth above.

#### **5-14-7. Referral of Application to the Chief of Police.**

Before issuing an auctioneer's license to any individual applying therefor, the City License Department shall refer the application to the Chief of Police who shall cause to be made such investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public good, except that the City License Department may waive this requirement with respect to an application for renewal of an auctioneer's license by an individual holding an unexpired auctioneer's license issued under this chapter if an investigation of such applicant's moral character and business responsibility has previously been made under this section in connection with a prior application for an auctioneer's license under this chapter. The Chief of Police shall cause the investigation herein provided for to be made within a reasonable time and shall certify to the City License Department whether or not the moral character and business responsibility of the applicant is satisfactory.

#### **5-14-8. Refusal or Revocation of License by License Department.**

An auctioneer's license may be revoked by the City License Department or an application for issuance or renewal of such license may be refused by the City License Department, if it is determined, after notice and hearing:

- (a) That the applicant or license holder is not an individual of good moral character and business responsibility; or
- (b) That the application of the applicant or license holder contains false, fraudulent, or misleading material statements; or
- (c) That the applicant or license-holder has made any false, fraudulent or misleading material statement in the course of conducting an auction sale of, or in offering for sale at an auction, any real or personal property, (goods, wares, or merchandise) in Sandy City, Utah; or
- (d) That the applicant or license-holder has perpetrated a fraud upon any person whether or not such fraud was perpetrated in the conduct of an auction in Sandy City, Utah; or
- (e) That the applicant or license-holder has violated any of the statutes of the State of

- Utah relating to auctions or auctioneers; or
- (f) That the applicant has been convicted of any crime or misdemeanor involving moral turpitude; or
  - (g) That the applicant or license-holder has conducted an auction sale, or offered for sale at auction, any real or personal property (goods, wares, or merchandise) in Sandy City, Utah, in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

#### **5-14-9. Required Notice of Hearing.**

Notice of hearing provided for in the preceding section shall be given in writing to the applicant or license-holder as the case may be. Such notice shall be mailed, postage prepaid, to the applicant or license-holder as the case may be, at his last known address at least five days prior to the date set for hearing. The applicant or license-holder as the case may be, shall have the right to be represented at such hearing by counsel.

#### **5-14-10. Appeal to Mayor.**

Any individual aggrieved by the action of the City License Department in refusing to issue any license or in revoking any license or special permit already issued shall have the right to appeal such decision to the Mayor of Sandy City. Such appeal shall be taken by filing with the Mayor, or person designated by him, within fourteen days after notice of the action complained of has been mailed postage prepaid, to such individual's last known address, a written statement setting forth fully the grounds of appeal. The Mayor shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in the preceding section. The appellant shall have the right to be represented at such hearing by counsel. The decision and order of the Mayor shall be final and conclusive.

#### **5-14-11. Auctioneer's License Fee.**

The fees for an auctioneer's license shall be established by resolution of the City Council and said sum shall be prorated in the manner provided for elsewhere in this title.

#### **5-14-12. Bond Required Prior to License Issuance.**

- (a) Every applicant for an auctioneer's license shall file with the City Recorder of Sandy City a surety bond running to Sandy City, in the amount of \$10,000.00 dollars with surety acceptable to and approved by the City Attorney conditioned that the said applicant, if issued an auctioneer's license, will comply fully with all the provisions of the ordinances of Sandy City and the statutes of the State of Utah regulating and concerning auctions and auctioneers, will render true and strict accounts of all his sales to any person or persons employing him to make the same, will not practice any fraud or deceit upon bidders or purchasers of property from him at any auction sale or suffer or permit any person in his employ to practice any such fraud or deceit, and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence, or other

wrongful act on the part of the licensee, his agents or employees in the conduct of any auction or in the exercise of the calling of auctioneer. A liability insurance policy issued by an insurance company authorized to do business in the State of Utah which conforms to the above requirements may be permitted by the City Attorney in his discretion in lieu of a bond. An auctioneer employed by one holding an auction house license or a transient auction house owner's license, in lieu of filing a bond or certificate of insurance, may file a notarized affidavit from the said license holder that affirms that said applicant is an employee, that the said license holder is responsible for all actions of his employee, and that said employee is covered by a valid bond as above required.

- (b) It shall be unlawful for any auctioneer who files a certificate of employment with an auction house licensee or transient auction house licensee to conduct an auction except under the direct supervision of said licensee.

#### **5-14-13. Issuance of License.**

Upon the approval of a proper application form and payment by the applicant of the fees provided in this chapter, and upon the filing by the applicant of the bond required by this chapter, the License Department is authorized to grant or renew an auctioneer's license for any period of time not exceeding one year.

#### **5-14-14. License Non-Transferable.**

Neither the license nor the permit granted under the provisions of this chapter shall be transferable, nor shall the same be loaned or used by any other person.

#### **5-14-15. Auction House License Required.**

It shall be unlawful for any person to engage in the business of, or keep, conduct or operate an auction house in Sandy City without first obtaining a license to do so and filing a bond as required herein.

#### **5-14-16. Auction House License Fee.**

The fee for an auction house license shall be established by resolution of the City Council and said sum shall be prorated in the manner provided for elsewhere in this title.

#### **5-14-17. Transient Auction House Owner. License Period.**

It shall be unlawful for any person to conduct an auction as a transient auction house owner, without applying for and obtaining a transient auction house owner's license from the City License Department; provided, however, the one who holds an auction house license shall not be required to also obtain a transient auction house license. Further, no person shall be relieved from the provisions of this chapter by reason of a temporary association with any license dealer, trader, merchant or auctioneer, notwithstanding the fact that said parties conduct such temporary or transient auction business in connection with, as a part of, or in the name of any other licensed dealer, trader, merchant or auctioneer.



**5-14-18. Transient Auction House License Fee.**

The license fee for engaging in business as a transient auction house shall be established by resolution of the City Council and shall be payable in advance for each day such business shall continue.

**5-14-19. Bond Required.**

The applicant for transient auction house license or an auction house shall file with the City Recorder of Sandy City a corporate surety bond acceptable to and approved by the City Attorney in the sum of \$10,000, which bond shall indemnify and run to Sandy City and any person injured or damaged through dealing with each said licensee or their employees and agents and be in full force and effect for the year in which they obtain a license. It shall be conditioned on the fact that if the applicant is issued said license, said licensee will fully comply with all provisions of the ordinance of Sandy City and the statutes of the State of Utah regulating and concerning auctioneers, will render true and strict accounts of all auction sales to any person or persons employing said auctioneer to make the same, will not practice any fraud, deceit or make any material misrepresentations of fact with reference to property or bidders or purchasers of property from any auction sale conducted under the license and will pay all damages which may be sustained by any person by reason of any fraud, deceit, negligence or wrongful act on the part of the licensee, his agents or employees and the conduct of auctioneer in the exercise of the call of auctioneer.

**5-14-20. Sale Merchandise Must be Labeled.**

Before any sale is made at auction, the licensee must attach to each article to be sold, which has a retail value of five dollars or more, a card with the number of the said article endorsed thereon, so that the number shall correspond to the article as it is described in the inventory on file with the License Department, as hereinabove set forth. No article which has a retail value of five dollars or more shall be sold at auction, other than the merchandise described and set forth in the inventory on file with the License Department as hereinabove required. Where a sale is had at public auction of the stock on hand of any merchant or auction house, in accordance with the provisions of this chapter, such stock shall not be fed or replenished.

**5-14-21. False Representation Prohibited.**

It shall be unlawful for any auctioneer, when selling or offering for sale at public auction any goods, wares or merchandise, under the provisions of this chapter, while describing said goods, wares or merchandise with respect to character, quality, kind or value or otherwise, to make any fraudulent, misleading, untruthful or unwarranted statements tending in any way to mislead bidders, or to substitute an article sold for another.

**5-14-22. Reserved Right of Seller to Bid.**

The right to bid may be reserved expressly by, or on behalf of, the seller; provided, however, that notice of such reservation shall be posted, and shall remain posted throughout the



auction sale, in a prominent and conspicuous place where the sale is being conducted, in letters large enough to be reasonably visible to any person with normal vision who may attend said sale, reading substantially as follows:

SELLER RESERVES THE RIGHT TO BID ON ANY ARTICLE AT ANY TIME.

**5-14-23. Unlawful for Seller to Bid at Sale without Reserve.**

Where notice has not been given that a sale by auction is subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ or induce any person to bid at such sale on his behalf or for the auctioneer to employ or induce any person to bid at such sale on behalf of the seller or knowingly to take any bid from the seller or any person employed by him. Any sale contravening this rule may be treated as fraudulent by the buyer.

**5-14-24. Buy Bidders Prohibited.**

It shall be unlawful for any person to act at any sale by auction as a bidder or booster to buy in behalf of the auctioneer or owner or to increase the price of the article to be sold or to make any false bid.

**5-14-25. Continuous Attendance by Licensee Required.**

The licensee or, if a corporation, one of the officers of the licensee, shall remain in continuous attendance at any auction.

**5-14-26. Representation of Quality Must be Truthful.**

All sales and all persons participating in sales must truly and correctly represent at all times to the public attending such auction the facts in respect to quality of the sale merchandise.

**5-14-27. Record of Sales to be kept.**

The licensee in each and every case, where an article is sold for five dollars or more, shall keep a complete record of all such sales made at auction, showing the name and address of each purchaser, a description of each such article sold, including the number thereof, corresponding with the numbers shown upon the inventory on file with the License Department, and the date of each such sale, and the said record shall at all times be open to inspection by the License Department.

**5-14-28. Sale Merchandise to be in State for 15 Days.**

It shall be unlawful for anyone to sell or offer for sale at auction any merchandise unless the merchandise shall have been with the State of Utah for at least 15 days immediately prior to the sale or offer for sale and the City License shall be given 5 days advance notice of its arrival in Sandy City; provided that livestock shall only be required to be at the location where a sale is held not less than 2 days prior to said auction.

**5-14-29. Auction to be on Successive Days.**

All auction sales shall be held on successive days, Sundays and legal holidays are excepted.

**5-14-30. Sale of Valuable Articles at Certain Hours Prohibited.**

It shall be unlawful for sale at auction or sell at auction any gold, silver, plated ware, clocks, watches, oriental rugs or rugs purported to be from the Middle East or eastern part of the world, diamonds or other precious or semi-precious stones or any imitation thereof, glassware, china, linens, or jewelry or any article purporting to be or represented as any of the above articles between the hours of 6 p.m. and 8 a.m. of the following day.

**5-14-31. Receipts for Goods. Commission.**

It shall be the duty of all licensed auctioneers to receive all articles which may be offered them for sale at auction, and give receipts therefor; and at the close of any sale, which must be made as the owner directs, the auctioneer shall deliver a fair account of such sale, and pay the amount received for such articles to the person entitled thereto, deducting therefrom a commission not to exceed twenty-five per cent on the amount of such sale.

**5-14-32. Prohibited Conduct at Auction Sales.**

All auctioneers are forbidden to conduct their sales in such manner as to cause people to gather in crowds on the sidewalks so as to obstruct the same; nor shall they use immoral or indecent language in crying their sales; or make or cause to be made noisy acclamations such as ringing of bells, blowing of whistles or otherwise, though not enumerated here, through the streets in advertising their sales; and no bellman or crier, drum or fife or other musical instrument or noisemaking means of attracting the attention of passersby, except the customary auctioneer's flags, shall be employed or suffered to be used at or near any place of sale or at or near any auction room or near any auction whatsoever.

**5-14-33. Licenses to Conform to Other Laws.**

Nothing in this chapter shall be deemed to exempt any auction house or auctioneer, or the seller or any goods sold at auction from any license, tax or other ordinance of Sandy City, nor from any of the laws of the State of Utah to which either of them may be subject.

**5-14-34. Purchaser's Right to Inspect Merchandise.**

- (a) The licensee shall allow prospective purchasers at auctions the opportunity, for a period of not less than three (3) hours just preceding the commencement of the auction sale, to inspect all merchandise offered for sale at any auction.
- (b) It shall be the duty of all licensees to include, as a part of any bulletin, advertisement or other informational publication distributed in connection with any auction, information indicating the right of prospective purchasers to inspect the merchandise offered for sale.

### **5-14-35. Records of Sales for Valuable Articles.**

Any auction house licensee providing auction house facilities for auctioneers of valuable articles as that term is defined in Section 5-14-30 shall, within a period of ten days following the final day of auction of such valuable articles provide the City Licensing Department with complete records of all sales of valuable articles including:

- (a) The names and addresses of all purchasers of all valuable articles at said auction and the date upon which such purchase was made.
- (b) A description of the valuable article purchased and the purchase price paid for such article.
- (c) The name and address of the auctioneer selling such articles and the name and address of the responsible person or entity on whose behalf the auctioneer made such sale.

## **Chapter 15 PAWNBROKER REGULATIONS**

### **5-15-1. Definitions.**

For the purpose of this chapter, the following words shall have the meaning as herein defined:

- (a) **Antique Dealer:** Any person, firm or corporation engaged in the business of buying, selling or exchanging old or archaic items which are indicative of an older culture.
- (b) **Coin Dealer:** Any person, firm or corporation which engages in buying or selling coins having numismatic value.
- (c) **Junk Collector:** Any person, firm or corporation not having a fixed place of business in Sandy City who goes from house to house or place to place gathering, collecting, buying, exchanging, selling or otherwise dealing in old rags, papers, metals or other articles commonly known as junk.
- (d) **Junk Dealer:** Any person, firms, or corporation which engages in buying or selling old metals (other than precious metals), glass, rags, rubber, paper and other junk from a fixed place of business. For the purpose of this chapter “junk dealer” shall not include any person defined as a “scrap metal processor”.
- (e) **Pawnbroker:** Any person, firm or corporation which loans money on deposit of personal property, deals in the purchase, exchange, or possession of personal property on condition of selling the same back again to the pledgor or depositor, who loans or advances money on personal property by taking chattel mortgage security thereon and takes or receives such personal property into his possession, and who sells unredeemed pledges together with new merchandise as will facilitate the sale of the same.
- (f) **Processor:** Any person, firm or corporation which engages in refining or otherwise altering the form of precious metal not found in a natural state, i.e. raw ore.

Processors who deal exclusively with other licensed dealers need not comply with the provisions of Section 5-15-10.

(g) Receives: Acquiring possession, control or title or lending on the security of the property.

(h) Scrap Metal Processor: Any person, firm or corporation who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel or non-ferrous scrap into prepared grades and manufacturing iron, steel or nonferrous scrap into prepared grades and whose principal produce is scrap iron, scrap steel or non-ferrous metallic scrap for sale or remelting purposes.

(i) Secondhand Dealer: Any person, firm or corporation 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, "secondhand dealer" shall not include any person who deals in the purchase, barter, sale or exchange of used motor vehicles or trailers nor a "scrap metal processor".

(j) Secondhand Precious Metal Dealer Processor and/or Precious Gem Dealer: Any person, firm or corporation which engages in buying, exchanging or selling of gold, silver, platinum or other precious metals or secondhand articles containing any of such metals, secondhand precious gems or any articles containing any precious gems.

### **5-15-2.     Licensing.**

(a) It shall be unlawful for any person, firm or corporation to carry on a transaction of antique dealer, coin dealer, junk dealer, junk collector, pawnbroker, scrap metal processor, secondary metals dealer or recycler, secondhand merchandise dealer without previously having obtained a license to operate in accordance with the provisions of this chapter. A separate license shall be required for each location and for the conduct of business by each dealer.

(b) If, during the license year, there is a change in the information that a person gave in obtaining or renewing a license under this chapter, the person shall report the change to the Sandy City Business Department within thirty (30) days after the change occurs and certify that the information is true and correct under the penalties of law.

### **5-15-3.     Application for License.**

(a) Each application for a license shall be made on the form the Sandy City requires, and the applicant shall certify that the information given is true and correct under the penalties of law.

(b) Each application for a license under this chapter shall contain such information as deemed necessary by the Chief of Police and the Community Development Department of Sandy City.

(c) The following may apply for a license:

(1) An individual.

(2) If an application for a license is made on behalf of a corporation or a limited partnership, the license shall be applied for by and issued to the individual(s) who is president of the corporation or are members of the partnership who are authorized to act for it.

(3) If the application is made on behalf of a partnership, the license shall be applied for by and issued to all of the individuals who are authorized to act for the partnership. Where any partner is a corporation or a limited partnership, the application shall be made by and issued to the president of the corporation or members of the limited partnership who are authorized to act for it.

(4) Each individual who applies for a license under this section assumes, as an individual, all responsibilities of the dealer and, as an individual, is subject to all conditions, restrictions and requirements imposed on dealers.

(d) Each individual applying for a license under this chapter shall not be issued a license until such time as the Sandy Police Department has conducted a background investigation on the applicant and recommended favorable consideration of the application. No such applicant may be authorized to conduct any business until his application has been approved by the Sandy Police Department and the applicant has complied with all other

licensing and bonding provisions contained in this chapter.

#### **5-15-4. Business Location; Separate License.**

(a) A person may conduct the licensed business only from the fixed permanent location as specified in the application for the license. A license for any of the above business may not be issued to a motel or hotel room or other temporary location, a home occupation or a temporary license.

(b) A licensee may not remove or relocate the location specified in the license for the business or open any additional location unless the person has applied for and obtained a separate license from the Sandy City Business Licensing Department.

(c) No person may carry on any of the activities of a Coin Dealer, Pawnbroker, Secondhand Merchandise Dealer or Junk Dealer other than at a business location licensed for such business.

(d) A separate license is required for doing business as any of the above activities in addition to a license for any other business activity conducted on the premises.

#### **5-15-5. Fees.**

(a) The license fee, which may include a disproportionate license fee, for each of the occupations regulated by this chapter shall be established by resolution of the City Council.

(b) All, or a portion, of the disproportionate fee may be waived, as established by City Council, if the licensee maintains all registers as established by 13-32a-104 Utah Code Ann., transmits the registers to the central database established by 13-32a-105 Utah Code Ann., submits photographs to the Sandy Police Department as set forth in Section 5-15-6(c) ROSC, and otherwise complies with all other state provisions as set forth in Section 5-15-6 ROSC.

#### **5-15-6. Compliance with State Regulations.**

(a) Except where state provisions specifically state otherwise, every pawn, secondhand business or coin dealer shall comply with the requirements of Title 11 Chapter 6 Utah Code Ann., Title 13 Chapter 32a Utah Code Ann. And Section 76-6-408(2)(c)(i) through (iii) Utah Code Ann. or successor provisions to any of these.

(b) Except where state provisions specifically state otherwise, every junk dealer, scrap metal processor or secondary metals dealer or recycler shall comply with the requirements of Title 76 Chapter 10 Part 9 Utah Code Ann. or successor provisions.

(c) In addition to the registration and other requirements established by the Utah Code Annotated, pawn and secondhand merchandise dealers may submit digital photographs to the Sandy Police Department in a format and with information as determined by the Sandy Police Department of all items pawned or sold to such dealers of sufficient detail and clarity to enable the items to be easily identified as to their color, size, and unique characteristics.

#### **5-15-7. Barrier Required Around Open Storage.**

The applicant/licensee shall comply with all requirements of the Land Development Code in the location and maintenance of the business premises including all regulations concerning screening a location of outside storage.

#### **5-15-8. Hours.**

The licensee shall comply with all applicable requirements of the state law and the Sandy City Land Development Code concerning the hours of operation for each type of business regulated by this chapter.

#### **5-15-9. Grounds for Refusal, Suspension, Revocation of License.**

Sandy City may refuse to grant a license under this chapter and may suspend, revoke, or refuse to renew the license of any applicant or licensee if it finds:

(a) The applicant or licensee has violated or is attempting to violate any provisions of this chapter, city ordinances or state laws pertaining to such business.

(b) A similar license issued to the applicant or licensee has been suspended, revoked or refused in another jurisdiction for a reason which would justify such an action under this section.

(c) Any officer, manager, agent or employee of the applicant or licensee has violated or is attempting to violate any provisions of this chapter, city ordinances or state laws pertaining to such business unless the applicant or licensee:

(1) had no knowledge of the wrongful conduct and in the exercise of reasonable diligence could not have known of the conduct; and

(2) was unable to prevent the violation or attempted violation with the exercise of reasonable diligence.

(d) The applicant or licensee has been convicted of theft or receiving stolen property on one or more occasions within the past five (5) years.

#### **5-15-10. Hearing; Appeals.**

Before revoking, suspending or refusing to grant or renew any license, the City shall afford the applicant, or licensee an opportunity for a hearing to show cause why a license should not be revoked, suspended or refused in accordance with the provisions of this Title.

#### **5-15-11. Violation.**

Violation of any provision of this chapter is a class B misdemeanor.

#### **5-15-12. Severability Clause.**

The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstances is held invalid, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

## **Chapter 16 HOME OCCUPATIONS**

### **5-16-1. Definitions.**

- a. Home Occupation: Means a business conducted as an accessory use in a residential zone as defined in and subject to the regulations in the Sandy City Land Development Code §15-13-14 ROSC and as set forth herein.
- b. Business License Coordinator: Means the individual who is responsible for performing the activities of the Business License Section.
- c. Business License Section: Means the Business License Section of the Community Development Department.
- d. Child Day Care: Means continuous care and supervision for five (5) or more children under thirteen (13) Utah Code def. §26-39-102 years of age or children with disabilities under nineteen (19) years of age Utah Code def. §26-39-102 in lieu of care ordinarily provided by parents in their own home for at least four but less than 24 hours a day and for direct or indirect compensation. For purposes of licensing under this chapter child day care does not mean care provided to children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts, or as part of the program of an educational institution regulated by the boards of education of this state or by a parochial education or a parochial child care institution.
- e. Department: Means the Community Development Department of Sandy City.
- f. Disability: As defined by §57-21-2 Utah Code Annotated.

### **5-16-2. Relationship to Ordinances and Regulations.**

All Home Occupations shall conform to all fire, building, plumbing, electrical and health codes, the Sandy Land Development Code and all other regulations established by local, state or federal law. The Business Licensing Section shall coordinate the licensing review for all Home Occupations and issue Home Occupation licenses.

### **5-16-3. Home Occupation License Required.**

No person may conduct a business within a residence, the lot upon which it sits or within any of its accessory structures except as a home occupation in compliance with this Chapter. Except as specifically provided by Sandy City Ordinance, it shall be unlawful for any person to engage in or conduct a Home Occupation without having first procured a Home Occupation license from Sandy City, sometimes hereinafter to be called a "license". The license shall be renewed each year.

### **5-16-4. Transferability.**

Home Occupation licenses are not transferable to any other person or to any other location than that which is indicated on the approved application.

### **5-16-5. Fees.**



- a. Fees for Home Occupation licenses shall be established by resolution of City Council. All applicants for licenses shall pay the required fee unless otherwise excepted herein. Failure to pay the required fee shall preclude issuance or renewal of a license and may be cause for suspension or revocation.
- b. Any Home Occupation that has or will have annual gross receipts below \$1,000.00, shall be licensed but shall not be required to pay license fees. Proof of eligibility for the fee exemption is required by providing copies of federal or state tax returns.
- c. The Business Licensing Coordinator may waive certain Home Occupation license fees for persons with disabilities to assist them to become self sufficient pursuant to policies established by the Department.

#### **5-16-6. Licensing Procedure.**

In addition to the hearing requirements established for Conditional Uses in the Land Development Code, the License Coordinator may require additional hearings or approval for the aggregate effect more than one Home Occupation located within the same dwelling.

- a. An applicant for a Category I Permitted Home Occupation shall submit an application therefor to the Business License Section on a form to be supplied by the Business License Section.
- b. An applicant for a Category II Conditional Use Home Occupation must first obtain a Conditional Use Permit and must then submit an application for a Home Occupation license to the Business License Section on a form to be supplied by the Business License Section.
- c. The applicant shall attest to compliance with all the requirements for Home Occupations as set forth above.
- d. The Business License Section will request recommendations of approval or denial of, the Home Occupation License from the City departments, Boards and Commissions, and/or County, State or Federal agencies it determines appropriate.
- e. Recommendation for approval or denial of a license application, should be returned by the several departments to the Business License Section within thirty (30) days of the request thereof, and conditions as set by Planning Commission should be returned within thirty (30) days after the first available Planning Commission hearing, unless the matter is continued for further review. After receiving appropriate recommendations, the Business Licensing Section shall either deny the license application, set the matter before the hearing officer, or issue a license.

#### **5-16-7. Issuance or Denial of License.**

Granting of a license under the provisions of this ordinance shall not be considered or deemed a right and, if granted, inures to the benefit of the applicant only as a privilege temporarily granted. The City reserves the right to deny any application for a license described herein. If the Business License Coordinator finds that any applicant does not meet the requirements of or is disqualified under any section herein, or if it is found that the

application is deficient in any way, or any of the facts provided thereon are false or in question, the application shall be denied or the license revoked.

**5-16-8. Grounds for Denial, Suspension or Revocation of a Home Occupation License.**

- a. Any Home Occupation license requested or granted pursuant to this section may be denied, suspended or revoked by the Business License Coordinator pursuant to procedures established herein for the following:
  1. Violation on the licensed premises of any of the provisions of this section; or
  2. Violation by the applicant or employees of any other Sandy City, Salt Lake County, State or federal laws governing the operation of the Home Occupation; or
  3. Applicant/licensee supplied false or misleading information when applying for a Home Occupation license; or the applicant withheld relevant information on any application for any use or suffered or caused another to furnish or withhold such information on his or her behalf; or
  4. The owner, employee or operator of the business has violated any of the provisions of the Business License or Sandy Land Development Code or the Standards, Qualifications or conditions required to obtain the Home Occupation license or the property no longer complies with the Standards, Qualifications or conditions necessary to obtain or maintain a license; or
  5. The applicant has failed to pay applicable property tax, sales tax, utility tax, or license tax; or
  6. Any conduct or act of the applicant or employees on the premises where the Home Occupation is conducted, where the act is a nuisance, a public nuisance, or a menace to the health, safety, peace or general welfare of the city or its inhabitants; or
  7. The applicant/licensee has refused to allow authorized representatives of the City to make an inspection or has interfered with such representatives while in the performance of his duty in making such inspection; or
  8. The applicant is not complying with a requirement or condition set forth by the Sandy Land Development Code, Planning Commission or Business License Section, or by agreement; or
  9. The Home Occupation was given a recommendation for approval from the Department as a legal nonconforming use and is not complying with any requirement or condition established therefor by previous ordinance or conditions of approval or is in violation of subsections 1- 8 above.
  10. Upon good cause, as indicated and requested by any of the Sandy City, Salt Lake County, Utah State or Federal agencies required to supply consent for the Home Occupation license to be issued. Grounds for denial, revocation or suspension of

a Home Occupation include violations of any City, County, State or Federal laws or regulations; or

11. Any other reason expressly provided for in this chapter.

b. The Department shall give at least fourteen (14) days prior written notice, mailed or otherwise delivered to the address listed on the application as the address where the Home Occupation is being conducted, of the alleged violation or the manner in which the property no longer complies with the requirements for the Home Occupation, with the opportunity to correct the problem during said time. The fourteen (14) day notice period may be waived or reduced if there is a risk to public health, safety or welfare. Any substantiated, unresolved complaint, regarding the violation of standards, qualifications or application requirements or any of the above violations, which is received and verified by the City, against any Home Occupation licensed under this section, will require that any licenses be revoked and the business cease to operate.

### **5-16-9. Process for Appeal of Denied, Suspended or Revoked Licenses.**

a. In the event a license application submitted pursuant to this Chapter is denied or a license previously issued is suspended or revoked by the Business License Section, the applicant shall be given written notice as to the reasons for such denial, suspension or revocation. The applicant may then submit a written appeal, within fourteen (14) days of mailing of notice of denial, suspension or revocation, to the hearing officer who shall be the, Community Development Director or designee.

b. The applicant must allege that there is an error in the decision or determination made by the Business License Section and the factual and legal basis for such allegation. The applicant has the burden of proving that the Business License Section erred. In order to satisfy its burden, the applicant may submit written material, graphic representations and, if a hearing is held, oral testimony, to which the City will have the opportunity to respond. The Hearing Officer shall review the information submitted by the applicant and the City and may hold a hearing therefor. The Hearing Officer shall then issue a written decision and may make written findings. Written notice shall be given to the applicant within thirty (30) days of the Hearing Officer's decision.

c. The Hearing Officer will review the decision of the Business License Section to determine if there is a rational basis for the Section's decision. If there is a rational basis for the Business License Section's decision, the Hearing Officer shall uphold the decision of the Business License Section. If the applicant so desires, the applicant may further appeal the decision of the Hearing Officer to Sandy City Board of Adjustment within thirty (30) days of the Hearing Officer's decision. In the appeal to the Board of Adjustment, the plaintiff may only allege that the Hearing Officer's decision was arbitrary, capricious, or illegal.

d. If the applicant so desires, the applicant may further appeal the decision of the Hearing Officer to district court within thirty (30) days of the Board of Adjustment's decision. In the appeal to district court, the plaintiff may only allege that the Board's decision was arbitrary, capricious, or illegal.

e. If a Home Occupation license is denied, suspended or revoked, the applicant may reapply for a new Home Occupation license after the period of suspension or

revocation, provided there is complete conformance with all of the current Home Occupation regulations.

## **Chapter 17 BURGLARY AND ALARM SYSTEMS**

### **5-17-1. Definitions.**

- (a) "Alarm Business" means any persons engaged in the business of installing, planning the installation, assisting in the planning or the installation, servicing, maintaining, repairing, replacing, moving or removing alarm systems in Sandy City.
- (b) "Alarm coordinator" means the individual designated by the chief of police to issue permits and enforce the provisions of this title.
- (c) "Alarm dispatch request" means a notification to the police by the alarm business that an alarm, either manual or automatic, has been activated at a particular alarm site.
- (d) "Alarm site" means a single premises or location served by an alarm system or systems. Each tenancy, if served by a separate alarm system in a multitenant building or complex shall be considered a separate alarm site.
- (e) Alarm system" means any mechanism, equipment, or device which is designated to detect an unauthorized entry into any building or onto any property, or to direct attention to a robbery, burglary, or other emergency in progress, and to signal the above occurrences either by a local or audible alarm or by a silent or remote alarm. The following devices shall not constitute alarm systems within the meaning of this subsection:
  - (1) Alarm devices which are not installed, operated or used for the purpose of reporting an emergency to the police department;
  - (2) Alarm devices installed on a temporary basis by the police department;
  - (3) Alarm devices which do not register alarms that are audible, visible, or perceptible outside the protected premises; and
  - (4) Alarm devices affixed to motor vehicles, unless the vehicle is permanently affixed to the real property at the alarm site.
- (f) "Alarm user" means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion thereof wherein an alarm system is maintained.
- (g) "Answering service" means a telephone answering service providing among its services the receiving on a continuous basis through trained employees of emergency signals from alarm systems and the subsequent relaying of such messages by a live voice to the police department.
- (h) "Apartment complex" means any building or group of buildings containing two or more rental units.
- (i) "Automatic dialing device" means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice-

message indicating the existence of an emergency situation that the alarm system is designed to detect.

- (j) "Central station" means an office to which alarm systems are connected, where operators supervise the circuits, and where guards and/or servicemen are maintained continuously to investigate signals.
- (k) "Duress alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a crisis situation requiring police response.
- (l) "Emergency" means the commission or attempted commission of a robbery, burglary or other criminal action or the occurrence of a medical event requiring immediate response.
- (m) "Employee" means any person who is employed by an alarm business and who sells, installs, services, maintains, repairs, or replaces alarm systems in the City.
- (n) "False alarm" means the activation of an alarm system which results in an arrival at the alarm site by the police department where an emergency does not exist. It includes an alarm signal caused by conditions of nature which are normal for that area and subject to control by the alarm business operator or alarm user. "False alarm" does not include an alarm signal caused by extraordinarily violent conditions of nature not reasonably subject to control, such as tornadoes, floods or earthquakes.
- (o) "Holdup alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.
- (p) "Intrusion alarm system" means an alarm system signaling an entry or attempted entry into the area protected by the system.
- (q) "Local alarm" means any noise-making alarm device audible at the alarm site.
- (r) "One Plus duress alarm" means the manual activation of a silent alarm signal by entering at a keypad a code that adds one to the last digit of the normal arm/disarm code [Normal code=1234; One plus code=12345].
- (s) "Permittee" means the person to whom an alarm user permit is issued.
- (t) "Person" means and includes natural persons, without regard to number or gender, and any

## **5-17-2. Applicability of Provisions.**

partnership, corporation, and any other type of legal entity.

The provisions of this chapter shall apply to all alarm users, businesses, employees and alarm systems which are installed, connected, monitored, operated or maintained on or prior to the date on which the ordinance codified in this chapter became effective, and subsequent thereto.

## **5-17-3. Registration Required to Operate Alarm Business.**

It is unlawful for any person, partnership, corporation or association to engage in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system in or on any building or other property within the City of any device known as an intrusion or physical duress alarm system, or automatic dialing device connected to an answering service, unless there exists a valid license therefore under the provisions of the Burglar Alarm Security and Licensing Act, Sections 58-65-101 et seq.,

Utah Code Annotated 1953, as amended, or its successor and the name, address and certificate number or identification number has been registered with the Chief of Police. There shall be no fee for registration within the City under this section.

#### **5-17-4. Alarm User Permits.**

- (a) Every alarm user shall have in his/her possession an alarm user permit issued by the chief of police at no charge. Such permit shall be issued upon filing by the user or alarm business, with the police department, a completed alarm permit application as provided by Section 5-17-5 or its successor section. A separate permit shall be required for each alarm site. The permit application shall be submitted to the alarm coordinator no later than fifteen (15) days following the alarm installation or following an existing system being taken over by a different alarm user. The alarm user shall be responsible for the maintenance and operation of the alarm system and for the payment of all fees and penalties under this chapter.
- (b) It is unlawful to operate an alarm system without an alarm permit.
- (c) An alarm user permit shall continue in effect until there is a change in ownership of the alarm system, at which time the permit shall expire. Alarm permits shall not be transferable.

#### **5-17-5. Alarm Permit Application.**

- (a) An alarm permit application shall be completed and submitted to the police department's alarm coordinator by the user and/or by the alarm business prior to the operation of an alarm system.
- (b) The permit application shall set forth the full name, address and telephone number of both the owner or lessee on whose premises the system will be installed, operated, connected, monitored or maintained, and the name of the licensed alarm system business installing, monitoring, maintaining or servicing the system, as well as the type of system to be installed, operated or maintained. The persons listed shall have authority to act for the alarm user in granting peace officers access to any portion of the premises concerned and shall be knowledgeable in the basic operation of the alarm system. The alarm permit application shall contain such additional information as the chief of police shall reasonably deem necessary to properly identify and locate the user, the alarm business installing, servicing, monitoring or maintaining the alarm system, and the persons to be contacted in the event of the filing of an alarm report.
- (c) A penalty service fee may be assessed upon a user when the peace officers responding to an alarm are unable to contact any of the listed parties due to outdated or inaccurate information provided by the user. The penalty service fee shall be determined by treating any such failure by a user as if it were a false

alarm; as provided in Section 5-17-7 or its successor section, and may be considered as an additional false alarm for the purpose of computing fees. In addition, the Chief of Police may, at his/her discretion, choose not to provide police response to any further alarms at an alarm site in the event an alarm user fails to comply with this section.

**5-17-6. User Instructions.**

- (a) Every alarm business selling, leasing or furnishing to any user an alarm system which is installed on premises located in the area subject to this chapter shall furnish the user with written instructions and training that provide information to enable the user to operate the alarm system properly and to avoid false alarms. Written operating instructions, and the phone number of the monitoring station, shall be maintained at each alarm site. The alarm business shall notify the alarm user of the permit requirements.
- (b) After March 31, 1998, no alarm business shall program alarm systems so they are capable of sending One Plus duress alarms. Alarm businesses may continue to report One Plus duress alarms received from alarm systems programmed with this feature prior to March 31, 1998; however, after that date, when performing a takeover or conversion, an alarm business shall remove the One Plus duress alarm capability from the alarm system being taken over or converted.

**5-17-7. False Alarms.**

- (a) Permit holders shall be responsible for false alarms caused by anyone with authorized access to the premises. Revocation of a user permit shall be in accordance with the license revocation provisions specified in Section 5-2-10(d) of City Ordinances, or its successor chapter. A hearing officer at a revocation proceeding shall have authority to suspend a user permit in lieu of revocation in appropriate cases. Any city alarm user whose permit is suspended or revoked by the City shall pay a reinstatement of one hundred dollars to the City before such permit shall be reinstated or reissued.
- (b) A service fee is imposed for false alarms on a physical duress or intrusion alarm system to which a peace officer responds. The fee is assessed on the user of the alarm system for each false alarm after four false alarms in any twelve-month period. The amount of the fee is one hundred dollars for each alarm after four false alarms in any twelve-month period.



(c) All penalties assessed under this chapter shall be due and payable on the date written notice of any penalty due is issued by the City. If any penalty is not paid within 90 days of the due date, the City may use such lawful means as are available to collect such penalties. In the event the City files an action in court to recover such penalties, the City shall be entitled to recovery of its costs and attorney's fees in addition to the penalties due and owing.

(d) The alarms coordinator may implement a false alarm prevention course to be made available to the public on a monthly basis at no cost. The course shall inform alarm users of problems created by false alarm dispatches and how users may operate an alarm system without generating false alarm dispatches. Users who complete the course shall receive a service fee credit for one false alarm. No permittee shall be entitled to take such course and receive such service fee credit more than once.

#### **5-17-8. Apartment Complex Alarm Systems.**

(a) If an alarm system installed, or caused to be installed, by any tenant in an apartment complex is monitored by an alarm business, the tenant shall provide the alarm coordinator the name of a representative of the apartment complex owner or property manager who can grant access to the rental unit by police officers responding to an alarm dispatch. Such tenant shall obtain an alarm permit from the alarm coordinator before operating or causing the operation of an alarm system in the tenant's rental unit.

(b) A tenant which has contracted with an alarm business to monitor an alarm system at the tenant's alarm site shall be responsible for false alarm dispatches emitted from the alarm system at such alarm site.

#### **5-17-9. Deliberate False Alarms.**

(a) No person shall cause to be transmitted any intrusion or physical duress alarm knowing the same to be false or without basis in fact.

(b) The following shall be presumed to be unintentional alarms:

- (1) emissions of malfunction signals from monitoring equipment; and
- (2) repeated false alarms from the same site within a reasonable period.

#### **5-17-10. Local alarm system - When Cutoff Required.**

Burglary, robbery or other emergency alarm systems which use a local audible or visual alarm device to attract the attention of the public shall be equipped with an automatic device which will terminate the audible or visual alarm within ten minutes.

#### **5-17-11. Police Call Records.**

Alarm businesses who request police response to alarm signals shall maintain a record of all police calls, stating the time, date and location of the alarm and the name, address and phone number of the alarm user. The records shall indicate the



cause of the alarm, if known. This record shall be current and shall be made available to the Chief of Police or the chief's designated representative at any time during normal business hours.

**5-17-12. Administration and Enforcement.**

The provisions of this chapter shall be administered and enforced by the Chief of Police. The Chief of Police, or his or her authorized representative, which may be the Chief Building Inspector, is authorized to make inspections of burglary, robbery and other emergency alarm systems and of the premises wherein said devices or systems are located. Such individual shall have authority at reasonable times and upon oral notice to enter upon any premises within the City to undertake such inspections and to determine whether such systems are being used in conformity with the provisions of this chapter.

**5-17-13. Operational Defects to be Remedied.**

Alarm users and alarm businesses are required to insure that sensory mechanisms used in connection with the robbery, burglary or other emergency alarm systems have been adjusted to suppress false alarms, so that the device will not be actuated by impulses due to transient pressure changes in water pipes, short flashes of light, wind noises such as the rattling or vibrating of doors or windows, vehicular noise adjacent to the installation, or other forces unrelated to genuine alarms.

**5-17-14. Automatic Dialing and Prerecorded Message Alarm Systems Unlawful.**

(a) It is unlawful to maintain, operate, connect, or allow to be maintained, operated or connected, any automatic dialing device which automatically dials the police department and then relays any prerecorded message to report any robbery, burglary or other emergency.

**5-17-15. Violation Penalty.**

(a) Notwithstanding any other provision in this chapter, failure of any person to comply with the requirements of this chapter shall constitute an infraction and shall be punishable by law as set forth in Section 1-2-2 of these Ordinances, or its successor section.

(b) In addition to other penalties provided in this chapter, failure by an alarm user or an alarm business to pay any penalty within 120 days of the due date shall constitute grounds for suspension or revocation of an alarm user permit. All service fees assessed under this chapter are due and payable on the date written notice of any fee due is issued by the City. If any service fee is not paid within thirty days of the due date, a penalty of ten dollars shall be added to each one hundred-dollar service fee so unpaid. If any service fee is not paid within sixty days of the due date, an additional penalty of ten dollars shall be added to each one hundred-dollar service fee so unpaid, for a total penalty of twenty dollars. If

any service fee is not paid within ninety days of the due date, an additional penalty of ten dollars shall be added to each one hundred-dollar service fee so unpaid, for a total penalty of thirty dollars. If any service fee is not paid within one hundred twenty days of the due date together with all applicable penalties, the City may use such lawful means as are available to collect such fee, including all penalties, costs and attorneys' fees.

#### **5-17-16. Appeal Procedure.**

- (a) Any alarm user may appear before the alarm coordinator and present and contest the assessment of any penalty. The burden to prove any matter shall be upon the person raising such matter.
- (b) If the alarm coordinator finds that no violation of this chapter occurred, or that a violation occurred but one or more of the defenses set forth in this section is applicable, the alarm coordinator may dismiss the penalty and release the alarm user from liability there under, or may reduce the penalty associated therewith as he or she shall determine. Such defenses are:
  - (1) The false alarm for which the penalty has been assessed did not originate at the premises of the alarm user who has been assessed the penalty.
  - (2) The alarm for which the penalty has been assessed was, in fact, not false, but was rather the result of an actual or attempted burglary, robbery, or other emergency.
  - (3) The police dispatch office was notified by the permit holder or the alarm business that the alarm was false prior to the arrival of a police officer to the alarm site in response to the false alarm; or
  - (4) Such other mitigating circumstances as may be approved by the City law department.
- (c) If the alarm coordinator finds that a false alarm did occur and no applicable defense exists, the alarm coordinator may, in the interest of justice and on behalf of the City, enter into an agreement for the timely or periodic payment of the applicable penalty.
- (d) Any decision made by the alarm coordinator under this section may be appealed to the Chief of Police.

## **Chapter 18 ESCORT AGENCIES, OUTCALL SERVICE AGENCIES, AND SEMI-NUDE DANCING AGENCIES**

#### **5-18-1. Affected Business.**

The Sandy City ("City") Council finds that escort agencies, outcall service agencies, and semi-nude dancing agencies seriously affect the economic, social and moral well being of the city and its residents, that such businesses must be regulated strictly for the welfare of the public, and that such businesses must therefore comply with this chapter.

### **5-18-2. Definitions.**

For the purpose of this chapter the following words shall have the following meanings:

“Agency” means an escort agency, outcall service agency, or a semi-nude dancing agency.

“Business License Authority” means the business license section of the City’s Community Development department.

"Escort" means a person who, for pecuniary compensation, dates, socializes, visits, consorts with or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement or within any place of public or private resort or any business or commercial establishment or any private quarters. "Escort" shall not be construed to include persons who provide business or personal services such as licensed private nurses, aides for the elderly or handicapped, social secretaries or similar service personnel (1) whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours or (2) who provide a service not principally characterized as dating or socializing. "Escort" shall also not be construed to include persons providing services such as singing telegrams, birthday greetings or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration of not longer than one (1) hour. “Escort agency” means any person who, for a fee, commission, hire, or profit, furnishes or arranges for escorts to accompany other persons for social engagements.

“Outcall service agency” means any person which furnishes, books, or otherwise engages or offers to furnish, book or otherwise engages outcall services.

“Outcall services” means services performed for pecuniary compensation and of a type generally performed within a sexually oriented business but performed outside of the premises of the sexually oriented business. Outcall services are prohibited in public places.

"Person" means any individual, agency, firm, unincorporated association, corporation, partnership or other legal entity. For purposes of this chapter, a person who operates an agency also includes each officer, director and shareholder owning 10% of the stock or beneficial ownership if the agency is a corporation, and each partner, including limited partners, if the agency is a partnership.

“Public places” means any location within the City frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public.

"Semi-nude dancing agency" means any person which furnishes, books, or otherwise engages or offers to furnish, book or otherwise engage the service of a professional dancer for performance or appearance at a sexually oriented business.

### **5-18-3. License Required.**

It is unlawful for any person to operate an agency, be employed by an agency, or perform escort or outcall services, within the City, without first obtaining a valid license from the business license authority.

### **5-18-4. Zoning.**

It is unlawful for any agency to do business at any location within the City not zoned for such business. Agencies shall not be permitted as a home occupation.

#### **5-18-5. License Application; Disclosure.**

All persons applying for any license required under this chapter shall:

- a. Pay the required fee.
- b. File a written application with the business license authority on a form to be provided by the business license authority to include the following as applicable:
  - 1) the complete name of each person, including the date and state of incorporation,
  - 2) the date of birth,
  - 3) the complete residence and business address, not by post office box, and previous residence and business addresses for a period of 3 years immediately prior to the date of application,
  - 4) a complete set of fingerprints,
  - 5) height, weight, color of eyes, color of hair,
  - 6) business, occupation or employment history for 5 years immediately preceding the date of application including, but not limited to, whether such person previously operated under any permit or license in another city in this state or another state and whether any such permit or license had ever been suspended or revoked,
  - 7) any convictions, including pleas of guilty or nolo contendere in any state or federal court within the past 10 years, including municipal ordinance violations, exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred,
  - 8) any pending criminal charges in any state or federal court, with a brief statement of the nature of the pending charges and the jurisdiction in which the charges are pending,
  - 9) the name and address of persons who will have custody of the business records at the business location,
  - 10) the name and address of the person who will be the agent for service of process,
  - 11) a description of the nature and scope of the proposed business or services.

#### **5-18-6. Additional License Requirements to Perform Escort or Outcall Services.**

In addition to the requirements under section 5 of this chapter, all persons performing escort or outcall services shall provide to the business license authority:

- a. Two passport-size color photographs at least one inch by one inch taken within 3 months of the date of application.
- b. The name and address of the business, if any, at which the applicant is currently working or at which the applicant expects to be employed.
- c. A certificate from the Salt Lake City-County Health Department, stating that the applicant has, within 30 days immediately preceding the date of the application, been examined and found to be free of any contagious or communicable disease.

#### **5-18-7. License Fees.**

The initial license and annual renewal fees for any license required under this chapter shall be as set by resolution passed by the Sandy City Council.

**5-18-8. Granting of License; Revocation, Suspension.**

- a. The business license authority may refuse to grant any license and may suspend, revoke or refuse to renew any license issued under this chapter if it finds:
  - 1) The applicant is under eighteen (18) years of age or any higher age, if the license sought requires a higher age.
  - 2) The required fee(s) have not been paid.
  - 3) The application does not conform in all respects to this chapter.
  - 4) The applicant has knowingly made a material misstatement in the application.
  - 5) The agency or the services as proposed by the person would not comply with all applicable local, state and federal laws, including but not limited to the city's building and zoning regulations.
  - 6) The person has had an agency license or permit or service license or permit or other similar license or permit revoked or suspended in this state or any other state within 3 years prior to the date of application.
  - 7) The person has at the time of the application a pending criminal charge, or within 5 years prior to the date of application has been convicted of, has pled guilty or nolo contendere to, any specified criminal activity as defined under Sandy City Ordinance 12-2-1 et seq. or any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of this state or any other state.
  - 8) The person, if a corporation, is not licensed to do business or is not in good standing in the state of Utah.
  - 9) For good cause shown.
- b. Before a license may be suspended or revoked, the business license authority shall afford the person an opportunity for a hearing to show cause why such license should not be suspended or revoked.

**5-18-9. License Limitations.**

- a. Each license shall remain valid from the date of issuance through January 1st of each succeeding year unless otherwise suspended or revoked. Such license may be renewed only by making a new application and payment of a fee as provided in section 5 and section 7. The license fees shall not be prorated for any portion of a year but shall be paid in full for whatever portion of the year the license is applied for. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

- b. Any change in the information required to be submitted for any license required under this ordinance shall be given, in writing, to the business license authority within fourteen days after such change.
- c. Any license granted under this chapter shall not be transferable.
- d. Each application for an agency license under this chapter shall post with the business license authority a cash or corporate surety bond payable to Sandy City Corporation in the amount of two thousand dollars. Each application to perform escort or outcall services under this chapter shall post with the business license authority a cash or corporate surety bond payable to Sandy City Corporation in the amount of five hundred dollars. Any fines assessed for violations of City ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine unless an appeal is filed as provided by this chapter. In the event that funds are drawn against the cash or surety bond to pay such fines the bond shall be replenished to two thousand dollars within fifteen days of the date of notice of any draw against it.
- e. It is unlawful for any agency to fail to display the license granted pursuant to this ordinance in a prominent location within the business premises. It shall be unlawful for any individual licensed pursuant to this ordinance to fail to, at all times while engaged in licensed activities within the corporate boundaries of the city, carry their license on their person. When requested by police, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City.
- f. It is unlawful to conduct business under a license issued pursuant to this ordinance at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by said business shall require a separate license. It is unlawful to do business under any name other than the business name specified in the application.

#### **5-18-10. Operational Restrictions for Escort and Outcall Services.**

All persons licensed pursuant to this chapter shall:

- a. Provide to each patron a written contract in receipt of pecuniary compensation for escort or outcall services. The contract shall clearly state the type of services to be performed, the length of time such services shall last, the cost to the patron and any special terms or conditions relating to the services performed. The contract need not include the name of the patron. The person shall keep and maintain a copy of each such written contract for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.
- b. Maintain an open office or telephone, regardless of the primary location of the business, at which the person's designated agent, may be personally contacted during all hours such services are being provided. The address and phone number of the office location shall appear and be included in all patron contracts and published advertisements.
- c. Permit the police department, or other City official, to have access at all times to all premises licensed or applying for a license under this chapter and to make periodic inspection of said premises.

#### **5-18-11. Violations; Penalties.**

#### **5-18-13. Severability.**

In addition to revocation or suspension of a license, each violation of this chapter shall, upon citation by the business license authority, require the person to pay a civil penalty in the amount of \$500.00, to be deducted from the cost bond required pursuant to this chapter. In addition to any civil fines, the violation of any provision of this ordinance shall be a class B misdemeanor. Each day of violation shall be considered a separate offense. In addition to the civil and criminal penalties provided herein, any person who violates any provision of this chapter is subject to a suit for injunction and any other remedy available at law or in equity.

**5-18-12.     Applicability to Existing Regulations.**

- a.       The provisions of this ordinance shall be applicable to all persons described herein whether the herein-described activities were established before or after the effective date of this chapter and regardless of whether such persons are currently licensed to do business in the City. All such persons shall have forty-five days from the effective date of this chapter, or until their current license expires, whichever is first in time, to comply with the provisions of this chapter.
- b.       Except where the context or specific provisions require, this ordinance does not supersede or nullify any other City ordinance.

In the event that any provision of this chapter is declared invalid for any reason, the remaining provisions shall remain in effect.