

**CITY OF MOAB ORDINANCE 2018-15**

**AN ORDINANCE MODIFYING BUSINESS LICENSING, SPECIAL EVENT PERMITTING, AND STREET PERFORMER PERMITTING PROCESSES AND REQUIREMENTS**

The following findings describe the intent and purpose of this ordinance:


- a. From time to time the City amends its ordinances to remove outdated provisions or improve its operations.
- b. State law changes, along with changes in what kinds of businesses are operating in Moab, necessitate significant changes to Moab City Code Title 5 Business Licenses and Regulations;
- c. Those changes, along with the need for an over cleanup and update, resulted in a major overhaul of Title 5, the creation of a new Title 4 Special Event and Street Performer Permits, and the repeal of Chapter 17.09.540 (relating to home occupation businesses);
- d. Subsequent to the passage of this Ordinance, new fees will be established via a separate ordinance and updated procedures will be implemented; and
- f. The City finds that these changes are necessary and appropriate.

Therefore, the City of Moab:

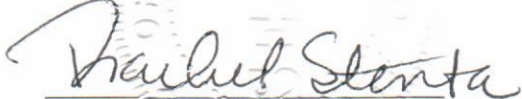
- 1. Repeals Chapter 17.09.540;
- 2. Amends Title 5 as described in the attached document; and
- 3. Creates a new Title 4 as described in the attached document.

PASSED AND ADOPTED by the Moab City Council on this 25th day of September, 2018.

SIGNED:

  
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Emily S. Niehaus, Mayor

ATTEST

  
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Rachel Stenta, Recorder

## **TITLE 4**

### **SPECIAL EVENT AND STREET PERFORMER PERMITS**

#### **Chapters:**

- 4.01 Purpose.**
- 4.02 Definitions.**
- 4.03 Special event permits required--application and review procedure.**
- 4.07 Serving alcohol at special events.**
- 4.09 Concurrent event applications.**
- 4.11 Special event application denials, revocations, and appeals.**
- 4.12 Street performers.**
- 4.13 Fees.**
- 4.15 Sales tax collection by applicant or vendors.**
- 4.17 Civil or criminal enforcement.**
- 4.19 Special event permit renewal.**

## **Chapter 4.01**

### **PURPOSE**

The purpose of this Title is to establish clear procedures through which a proposed special event or street performance may be permitted within the City of Moab. Special events are an integral component of the economy and sense of identity of Moab. Special events frequently impact businesses, neighborhoods, and normal day-to-day municipal functions, which is why the City sets forth below specific procedures and requirements to mitigate those impacts while ensuring a safe and successful event or street performance.

## **Chapter 4.02 DEFINITIONS**

The following definitions apply to this Title:

“Applicant” means the person, persons, or entity submitting an application under this chapter and who is responsible for the conduct of the event. The applicant signs the special event permit application and all other documents relevant to the event. The applicant is legally responsible for compliance with all terms of an issued permit.

“Charge” shall be defined as requiring someone to pay a fee or to set, negotiate or establish a fee for a performance. Seeking voluntary contributions through passing around a hat, leaving an open instrument case or other receptacle, or soliciting donations after a performance is not defined as a charge.

“Debriefing” means a meeting held by the Special Events Review Committee (SERC) within thirty business days of the close of the event. Attendance/participation of the applicant at this meeting is mandatory.

“Fees” means all charges assessed by the City of Moab for permitting, staffing, equipment use/rental, property use/rental, set-up, clean-up, inspections, public labor charges, or public equipment rental charges assessed to a special event and established within the event permitting process. See Section 4.15.

“Mass gatherings” are defined by Rule 392-400 of the Utah Administrative Code. Applicants must contact the Southeastern Utah District Health Department for information about mass gathering permits and food handling permits to the extent otherwise required by Utah law.

“Nonprofit organization” means an organization that qualifies for tax-exempt status according to the U.S. Treasury under Section 501(c)(3) of the Internal Revenue Code, which is created and operated to benefit the public interest and which includes a charitable, educational, scientific, religious, recreational, or artistic purpose.

“Permittee” means the applicant holding a valid permit under this chapter.

“Private event” means an event which is:

- Closed to the general public;
- Held entirely on private property for which such events are a permitted use under Title 17, or City property for which a permit has been obtained;
- Does not require installation of temporary water, power, cooking, sanitation, or waste management facilities; and
- Does not adversely impact City personnel, services, or facilities.

Private events shall not in any case be defined to include any event to which the public is invited, whether by advertisement or otherwise, or events where an admission fee is charged.

Private events are not regulated by this chapter except where specifically noted; however, the Moab police department may take enforcement action in the event of a nuisance, breach of the peace, noise violation, or the like.

“Performance” shall be defined to include, but not be limited to, the following activities: playing music, singing, dancing, pantomiming, puppeteering, juggling, fire-spinning, reciting, etc. Performance does not include providing personal services.

“Public event” shall be defined to mean any gathering which is open to all persons, which is advertised as open to the general public, or which is open to all persons who purchase admission.

“Special event” means a sporting, cultural, entertainment, commercial, or similar gathering, whether held for profit or on a nonprofit basis, occurring for a limited or fixed duration, not to exceed fifteen consecutive days, and which is likely to attract a large number of participants or spectators. By way of illustration, and not of limitation, special events subject to this chapter include: concerts, fairs, rallies, athletic events, or temporary sales events. Special events are further defined as follows:

Level I Event. Events expected to be attended by not more than two hundred people per day and which include one or more of the following:

Partial or rolling street closure of City right-of-ways, including streets, sidewalks, and/or pathways;

Vendor sales or concessions;

Amplified sound; or

An entrance fee or ticket charge for the event.

Level II Event. Events expected to be attended by more than two hundred people per day and which may include one or more of the following:

Full public street closure of City right-of-ways;

Vendor sales or concessions;

Amplified sound; or

An entrance fee or ticket charge for the event.

“Special Events Review Committee (SERC)” means a committee made up of representatives from City departments including, but not limited to, police, parks, public works, and representatives from the Southeastern Utah Health Department, Moab Valley Fire Protection District, and a County special events representative. The special events coordinator or his/her designee shall be the chair of this committee.

“Special events coordinator” means the City employee who administers the provisions of this chapter.

“Speech event” means an activity conducted primarily for the expression of political, social, religious, cultural, or other constitutionally protected speech. Speech events may include rallies, picketing, protesting, marching, demonstrating, or debating matters of public concern on any City street or other property. Speech events do not include events held in furtherance of a business or commercial purpose.

“Street closure” means the deliberate blockage of any public street or City owned parking facility to prohibit the flow of traffic or access of vehicles.

“Street performer” shall be defined as an individual or group who performs in a public area or a private outdoor area adjacent to a public street or sidewalk, for the purpose of providing public entertainment.

“Substantial change” means changes to an existing special event that cause the need for a different review level or cause the need for review by the City Council. These changes include, but are not limited to: increased need for street closures; increased need for police support; a change in duration; an increase in anticipated attendance; or the addition of vendor sales or concessions.

“Vendor” means a person selling food, beverages, souvenirs, or other merchandise at a special event. The term “vendor” does not include the sale of memberships in an organization which is the special event applicant.

“Venue” means the location or locations where a special event is held, including all ingress/egress routes, parking, and necessary facilities for the event.

**Chapter 4.03**  
**SPECIAL EVENT PERMITS REQUIRED--APPLICATION AND REVIEW**  
**PROCEDURE**

Sections:

- 4.03.010 Permits required.**
- 4.03.020 Permit exceptions.**
- 4.03.030 Application and review procedure.**

**4.03.010 Permits required.**

Any person wishing to hold a special event shall first obtain a permit under this chapter. It is unlawful for any person to hold a special event without obtaining a special event permit. All permits issued pursuant to this chapter are non-transferable and expire on the date specified.

**4.03.020 Permit exceptions.**

A. The following activities are exempt from this chapter:

1. Funeral processions by a licensed mortuary;
2. Activities lawfully conducted by a governmental agency on property or in facilities owned by that same agency;
3. Filming activities authorized by another type of permit;
4. Private events; or
5. Speech events that do not meet the definitions of a Level I or Level II event.

**4.03.030 Application and review procedure.**

A. All requests for a special event permit shall be made on a special event application prescribed by the City. The applicant shall submit the permit fee with the completed application. Application materials are available at City Hall and online at the City of Moab website, and must be completed and submitted to the special event coordinator according to the guidelines below unless otherwise approved by the special event coordinator upon a showing of good cause:

1. Not less than ninety days prior to the scheduled opening of any Level I or Level II event; or
2. Not less than seven days prior to a speech event.

3. Level II events may apply no earlier than one year prior to the requested date of the event.

B. All event applications will be reviewed to determine if the applicant has provided sufficient plans (including proof of financial responsibility and other licenses), equipment, personnel, and facilities to provide for the safe and orderly conduct of the event without imposing an unreasonable burden on public services, other businesses, or adjacent residents. Depending on the type and size of the event, the special event coordinator may require the applicant to submit additional documentation prior to review by SERC, which may include but is not limited to:

1. Proof of financial responsibility, which may include damage deposit(s), a performance bond, and/or liability insurance sufficient to cover anticipated risks;
2. A transportation and traffic control plan showing parking, ingress/egress routes, pedestrian access, and emergency access;
3. A staffing and security plan, which shall identify and describe numbers and types of security personnel, emergency medical services (EMS) and/or fire personnel, other staff, support facilities, and the like;
4. A facilities plan showing power, lighting, public address, stage, restrooms, waste disposal, water facilities, vending, and other facilities needed for the event;
5. Proof that the applicant has obtained (or will obtain by the date of the event) any other applicable governmental permits or licenses needed for the event, including, but not limited to: sales tax licenses, alcohol licenses, access permits, and/or food service permits from the Southeastern Utah Health Department;
6. If applicable, a statement of authorization from the special event sponsor identifying all vendors intending to conduct business on the premises of the special event; and
7. Any other information deemed necessary by staff for review of the event.

C. Upon receipt of a complete special event permit application and the permit fee, the special events coordinator shall schedule the application for review by the SERC. The SERC shall review and shall have the authority to administratively approve, approve with conditions, or deny the following applications:

1. Level I applications and renewals; and
2. Level II applications for renewals with no substantial changes from the previous year's event.

D. Where an application is not subject to approval by the SERC, it shall review the matter and provide an advisory recommendation to the City Council.



E. The City Council shall review and approve, approve with conditions, or deny the following applications:

1. Applications for new Level II events; as used herein, a “new Level II event” shall mean any Level II event being proposed for the first time;
2. An event renewal of a Level I event that now qualifies as a Level II event;
3. Level II event permit renewals where material elements of the event have substantially changed from the previous application; and
4. A Level II event which was not renewed for a period exceeding one year.

F. The special events coordinator shall promptly notify the applicant of the SERC recommendation to council and of the date the application will be scheduled before the City Council. The application shall be heard at a duly noticed public meeting. The City Council shall review the application for compliance with the standards set forth in this chapter.

G. Conditions required as part of the approval of an event permit may include, but are not limited to:

1. Restrictions on duration or hours of operation;
2. Restrictions on total attendance;
3. Limitations on vending or alcohol sales;
4. Limitations on parking, participant transportation, ingress/egress;
5. Limitations as to noise, dust, glare, or sound amplification;
6. Security, EMS, or other public safety measures;
7. Insurance, damage deposits, or other financial guarantees; and
8. Other measures which may reasonably provide for public health, safety, and welfare in connection with an event.

H. For purposes of this chapter, a special event permit is not deemed granted until the special event coordinator certifies in writing that all conditions of approval required prior to the event date have been satisfied.

I. A special event permit issued under this chapter is specific to the permittee, and may not be assigned. Any purported assignment shall result in the permit being deemed void.

**Chapter 4.07**  
**SERVING ALCOHOL AT SPECIAL EVENTS**

Sections:

- 4.07.020 Alcohol at public spaces.**
- 4.07.030 Application.**
- 4.07.040 Operational restrictions.**

**4.07.020 Alcohol at public spaces.**

A. Public events at City-owned facilities. The serving, consumption, and sale of alcoholic beverages at public events held at City-owned facilities, including parks, public streets, and sidewalks, may be permitted by the City Manager on a case-by-case basis as part of the special event permitting process.

1. Serving of alcohol shall be limited to the hours of ten a.m. until nine p.m. during the event.
2. Areas designated for the serving of alcoholic beverages must be located at least one hundred feet away from designated playgrounds, the skate park, and similar facilities.

B. Private events at the MARC. City staff is authorized to approve private events at the MARC where alcohol may be served.

1. Sponsors of private events at the MARC must:
  - a. Pay the applicable rental fee, as established from time to time by the City Council, and execute a public facility use agreement indemnifying and holding the City harmless from all liability associated with the serving and consumption of alcohol at the event; and
  - b. Comply with applicable laws governing the consumption and distribution of alcohol.
1. All events at the MARC, public or private, shall be concluded by eleven p.m.

C. Public events at County-owned facilities. The serving, consumption, and sale of alcoholic beverages to the public at facilities owned by Grand County within the City may be permitted by the City Manager provided each of the following conditions are met:

1. The event sponsor obtains approval from Grand County;
2. The event sponsor obtains the applicable State of Utah single event permit or temporary special event beer permit after receiving the City's written local consent, and abides by all terms and conditions of the State of Utah permit;
3. The event sponsor obtains the applicable City of Moab alcohol licenses; and

4. The event sponsor obtains the applicable special event license.

D. The applicable decision maker for any event authorized under this section shall be authorized to attach such other and additional terms and conditions upon the use and occupancy of public facilities as may be deemed necessary and appropriate, depending upon the nature of the event planned. These additional terms may include, but shall not be limited to:

1. Special limitations as to hours of operation;
2. Limits on the occupancy or total numbers of guests;
3. Security requirements;
4. Parking limitations;
5. Limits on the areas to be occupied by the event; and
6. Any conditions reasonably related to the safety of event participants, and the safety and peace of the general public.

#### **4.07.030 Application.**

Applicants who desire to serve alcohol at a special event must obtain written local consent from the City Manager and a state license under the Utah Alcoholic Beverage Control Act.

Concurrent with the application for local consent to serve alcohol at a special event, the applicant shall apply for a special event license, as provided under the City Code, all of which may be processed together by the City.

A. Contents of application for local consent. In addition to the application requirements set forth in Section 5.20.200, an application for local consent for a special event -with alcohol shall include the following:

1. The times, dates, location, nature and a description of the event;
2. A description or scaled floor plan designating:
  - a. The sites from which the applicant proposes that alcoholic beverages be sold or served, including all dispensing points. Dispensing points include storage areas, booths, tables, bars and other areas set apart for the sale of alcoholic beverages; and
  - b. The areas in which the applicant proposes that alcoholic beverages be allowed to be consumed.;
3. A statement of the purpose of the association or entity conducting the event;
4. A signed consent form authorizing law enforcement officers or City code enforcement officials an unrestricted right to enter the premises during the event for purposes of monitoring compliance with all license terms and City codes; and

5. An application fee, which sum shall be refundable in the event that the local consent is not granted.
- B. Application fee, denial of local consent, or conditions attached to local consent.
  1. Application fees for local consent for a special event serving alcohol shall be established by the City Council from time to time.
  2. The City Manager shall review an application for local consent to serve alcohol at a special event, and may approve the application as submitted, deny the application, or approve the application subject to conditions. Those conditions may include, but are not limited to:
    - a. Restrictions upon the dates of operation, hours of operation or location;
    - b. Parking, traffic control, security, sanitary facilities or similar public safety conditions; and/or
    - c. Insurance, liability protection, or similar financial guarantees.
  3. The City reserves the right to revoke local consent at any time, even after the applicant has received a license to serve alcohol from the State of Utah.

#### **4.07.040 Operational restrictions.**

- A. All persons involved in the sale or serving of alcoholic beverages at the event shall do so only under the supervision and direction of the licensee. The licensee shall be solely responsible for compliance with all applicable terms of the license, City ordinances, and the Utah Alcoholic Beverage Control Act.
- B. No beer or other alcoholic beverage shall be brought by persons other than the licensee onto the premises of the event
- C. Alcohol purchased for the event may not be stored in any place other than that described in the application for local consent and designated on the state permit.
- D. Alcohol purchased for the event may not be sold or served in any place other than the sites described in the application for local consent and designated on the state permit.
- E. Alcohol purchased for the event may not be consumed in any area other than that described in the application for local consent and designated on the state permit.
- F. Local consent for serving alcohol at a special event is not transferable, whether to another person, or another location.
- G. Local consent shall be approved for a specific event scheduled on a date or dates certain and shall be valid for a period not to exceed five consecutive days.
- H. No more than two consents for special events with alcohol shall be granted in any calendar year to any applicant.
- I. No sale of beer shall exceed a sixteen ounce serving.

J. Minors shall not be permitted to serve or dispense alcoholic beverages, nor shall they be permitted to consume or purchase alcoholic beverages at the event.

K. Alcoholic beverages shall be sold on a per serving basis; “all you can drink” or similar events where beer is served without limitation upon paying a fixed price are prohibited.

L. Licensees shall properly train all event personnel on all operational restrictions, and shall assure that alcoholic beverages are not served to obviously intoxicated persons.

M. The licensee shall provide adequate event security, given the nature of the event and the expected number of event patrons.

N. No event sponsor or other person shall charge an admission fee or otherwise charge a price for alcoholic beverages served and consumed in any public place, except in conformity with the provisions of this Title and Title 5.20. Violation of this subsection is a strict liability offense and shall be punishable as a Class C misdemeanor.

## **Chapter 4.09 CONCURRENT EVENT APPLICATIONS**

Complete applications will be reviewed in the order that they are received. If it is found that another event has already been approved for the dates requested in a pending application, the applicant will be notified and given the opportunity to change the event dates so as not to overlap with any other event. If no date change is selected, the decision to allow multiple events on the same dates will be made by the SERC or the City Council, as applicable. The determination will be based upon the following considerations:

Whether the events will adversely impact one another or create unreasonable burdens on the public health, safety, or welfare;

The geographic separation of the events;

The proposed time and duration of the special events;

Anticipated attendance volumes;

The demands upon public safety personnel, equipment, and/or transportation services; and

Anticipated traffic and parking impacts of the events.

**Chapter 4.11**  
**SPECIAL EVENT APPLICATION DENIALS, REVOCATIONS, AND APPEALS**

Sections:

- 4.11.020 Special event application denial.**
- 4.11.030 Permit revocation.**
- 4.11.040 Appeal procedure.**

**4.11.020 Special event application denial.**

A. The SERC or City Council, as applicable, may deny a special event application whenever the following apply:

1. Any grounds stated in Section 5.04.040;
2. The event presents significant or unacceptable adverse impacts upon the community, other businesses, or residents, which cannot reasonably be mitigated;
3. The event will pose an unreasonable burden on police, fire, EMS, public roads, or other essential public services so as to compromise services to other City residents;
4. The event will substantially interfere with any other event for which a permit has already been granted or with the provision of City services in support of other such events;
5. The applicant fails to provide the required documentation with the application or provides false or misleading statements in the application or supporting materials;
6. The applicant demonstrates an inability or unwillingness to conduct the event in conformity with the permit or the provisions of this chapter, or past events sponsored by the applicant or permittee have not been carried out in conformity with approved permits or this chapter;
7. The applicant has not obtained necessary licenses or permits from other governmental agencies required for the operation of the event; or
8. The applicant has not provided necessary proof of financial responsibility.

**4.11.030 Permit revocation.**

A. A permit issued under this chapter may be revoked for any of the following reasons:

1. Failure by the permittee to comply with City permit conditions, other permit or license conditions, or the provisions of this chapter;

2. Failure by the permittee to comply with other City ordinances or Utah laws;
3. Any violations of the Utah Beverage Control Act;
4. False, inaccurate, or misleading statements by the applicant or permittee in the application for a permit under this chapter, or in any supporting documentation; or
5. A serious breach of the peace, riot, or significant unlawful activity occurring within or adjacent to the event venue and/or involving event participants, the permittee, its agents, or employees.

B. The City shall deliver written notice of revocation to the permittee for the causes identified in subsections (A)(1) through (4) of this section. The permittee may appeal any such revocation as provided under this chapter.

C. Any City enforcement officer may enter the premises of any event permitted under this section at any time to determine compliance with all applicable laws and conditions. Any law enforcement officer who reasonably believes that an event is out of compliance with applicable laws and conditions shall have the authority to curtail or terminate the event.

#### **4.11.040 Appeal procedure.**

A. Any special event applicant adversely affected by a permitting decision under this chapter may appeal as provided in this section.

B. Appeals of decisions by the special events coordinator, SERC, or the City Council shall be appealed to the appeal authority by delivering written notice to the City no later than seven calendar days from the date of the decision or order which is the subject of the appeal. The appeal authority shall promptly hold a hearing, and any appeal authority decision shall be final.

C. In any appeal proceeding, the appeal authority shall only overturn the decision that is the subject of the appeal if it is found to be arbitrary, capricious, or unlawful.



**Chapter 4.12**  
**STREET PERFORMERS**

Sections:

- 4.12.020 Rules and Regulations.**
- 4.12.030 Performance permit--Application.**
- 4.12.040 Permit--Issuance.**
- 4.12.050 Grounds for denial.**
- 4.12.060 Permit--Display.**
- 4.12.070 Permit--Nontransferable.**

**4.12.020 Rules and regulations.**

- A. No street performer may perform or solicit contributions for a performance:
  - 1. Within ten feet of any street corner or marked pedestrian crosswalk.
  - 2. Within ten feet of the outer edge of any entrance to any business, including but not limited to doors, vestibules, driveways, outdoor dining area entries and emergency exits during the hours that any business on the premises is conducting business, without express written permission from the affected business or business.
- B. A street performer may not block or obstruct the free movement of pedestrians. If a sufficient crowd gathers to observe a performer such that a passage of the public through a public area is blocked or obstructed, a police officer or other City official may disperse that portion of the crowd that is blocking or obstructing passage of the public.
- C. A street performer who performs for a charge shall obtain an appropriate business license as provided for in Moab Municipal Code.
- D. No street performer may litter his or her performance site.
- E. No street performer shall place any object on a public sidewalk which causes less than a four foot contiguous sidewalk width to be kept clear for pedestrian passage.
- F. No street performer shall perform on any public sidewalk with more instruments, props, equipment or other items than the performer can reasonably transport or remove at one time.
- G. No street performer shall perform in contravention to the allowable noise levels established by Municipal Code Chapter 17.74
- H. No street performer shall block or obstruct a curb cut.
- I. No street performer shall connect or maintain an electrical cord to an adjacent building or to a City power source, except as part of an approved use of a public park.

J. Street performers utilizing outdoor private property must obtain written permission from the property owner to engage in a performance.

K. Any street performer meeting one or more of the following conditions shall obtain a performance permit as provided for in this chapter prior to engaging in a performance:

1. The performance involves more than two performers, unless said performance is in an established public park, subject to the reservation requirements and use regulations of the park.
2. The performance involves the use or construction of any stage, platform or similar structure for use during any performance.
3. The performance involves the use of amplified music or sound.
4. The performance involves any advertising off the premises of the performance, including flyers, posters and signs.
5. The performance involves an admission charge.
6. The performance involves the use of knives, swords, torches, axes, saws, fire, whips, lassos, drones or other potentially dangerous objects or involves acrobatics, tumbling, unicycling, breakdancing, stilts, trampolines, pogosticks, karate, human pyramids, or other potentially dangerous activity.

#### **4.12.030 Performance permit--Application.**

A street performer requiring a permit must complete and file with the City a performance permit application on a form approved by the City. A street performance with multiple performers need only obtain one permit. The applicant must provide the following information:

A. The names, addresses and contact information for all individuals performing under the permit.

B. If a group is performing under a permit, a designation of the individual(s) who will be responsible for compliance with the provisions of this chapter.

C. A detailed description of the nature of the act to be performed, including props, music, structures used, and any advertising methods.

D. The proposed location and time, dates, and duration of the performance(s).

E. If within ten feet of or on private property, a statement of authorization from the affected property owner(s).

#### **4.12.040 Permit--Issuance.**

Upon review of a performance permit under this chapter, the City Manager will determine if the application is satisfactory. The City Manager may consider the health, safety and welfare of the public and the performer(s) when determining if the application is satisfactory. The City Manager may place conditions on the issuance of the permit relative to the time, location and manner of the performance. After City Manager's approval, the City Treasurer will issue a performance permit showing the number of the permit, the date of issuance, the nature of the performance, the location(s) of the performance, the dates and time of the performance(s), and the name or names of the person(s) authorized to carry on same.

#### **4.12.050 Grounds for denial.**

A performance permit may be denied if the proposed performance is deemed to be a significant threat to public health, safety and welfare.

#### **4.12.060 Permit--Display.**

The permit issued under this chapter shall be kept on or about the persons authorized to perform under the permit.

#### **4.12.070 Permit--Nontransferable.**

Any permit issued pursuant to this chapter is not transferable by the permittee.

**Chapter 4.13**  
**FEES**

Sections:

- 4.13.020**    **Permit fees.**
- 4.13.030**    **Service fees.**
- 4.13.040**    **Deposit.**
- 4.13.050**    **Waiver of fees.**

**4.13.020**    **Permit fees.**

- A. All fees associated with special events and street performers shall be set according to the fee schedule established by the City Council.
- B. If applicable, a park rental fee is due with the permit application.

**4.13.030**    **Service Fees.**

The City may require payment of a City service fee to cover the cost for additional City services arising from a event. Additional City services include, but are not limited to, labor costs for City personnel, rental costs for the use of City equipment, and other direct costs for the use of City facilities and/or City utilities. The City service fee shall be estimated on a case by case basis, and shall be paid in full at the time of application. Additional charges may be assessed to the permittee after the event has ended.

**4.13.040**    **Deposit.**

The City may require any applicant to post a cash deposit or other security approved by the City Attorney to cover all estimated contingent costs prior to the issuance of a Level II special event permit, as a guarantee against fees, damages, clean-up, or loss to public property. The City may retain any such deposit to cover applicable fees, damages, clean-up costs, or repairs to public property or facilities. The unexpended balance of any deposit shall be promptly returned to the applicant no later than thirty days from the conclusion of the event.

**4.13.050**    **Waiver of fees.**

The City may waive fees related to special events only in the case of an application for a speech event.

**Chapter 4.15**  
**SALES TAX COLLECTION BY APPLICANT OR VENDORS**

Unless exempted by Utah law, an applicant for a special event that includes vendor sales or concessions shall either:

- A. Provide proof that all vendors have a Utah State sales tax identification number and agree to be responsible for direct remittance of all sales tax proceeds from the event to the state; or
- B. Provide proof that the applicant has a valid Utah State sales tax identification number and that it will require all vendors to execute a sales tax remittance agreement whereby the vendor delivers sales tax proceeds to the applicant for remittance to the state under the applicant's sales tax identification number.

The City shall be authorized to audit the applicant or otherwise verify that all sales tax remittances are paid.

**Chapter 4.17**  
**CIVIL OR CRIMINAL ENFORCEMENT**

A knowing violation of this chapter or any permit issued under this chapter by the applicant or permittee may be punishable, at the election of the City, as a Class B misdemeanor, as defined under the Moab Municipal Code or Utah statutes.

Alternately, the City may proceed to obtain civil injunctive or declaratory relief to halt or abate any violation of this chapter or any permit issued under this chapter. Proof of a violation shall be sufficient to obtain an injunction, which shall be issued without the requirement of bond. In addition to any other relief, in any civil enforcement action the City may recover its reasonable attorney fees and court costs against the applicant, permittee, or other person who may be in violation of this chapter.

**Chapter 4.19**  
**SPECIAL EVENT PERMIT RENEWAL**

Permittees who successfully complete a special event under the provisions of this chapter and who wish to have the event on an annual or periodic basis can request renewal during the debriefing meeting. Permittees who do not attend the debriefing meeting will not be given priority for renewal.

If a positive recommendation is given by the SERC, the permittee's dates for the next event will be reserved and the application for renewal may be submitted.

Event levels for renewals will be determined through the renewal process based on evidence of attendance and the needs of the event.

An application for renewal may be subject to denial if the event resulted in significant negative impacts, violations of the permit, or other violations as documented by the SERC. A person denied a renewal may appeal that decision as provided by this section 4.11.040 of this Title.

**Title 5**  
**BUSINESS LICENSES AND REGULATIONS**

Chapters:

- 5.04 Business Licenses Generally**
- 5.20 Alcoholic Beverages**
- 5.21 Regulating the Retail Sale of Tobacco Products**
- 5.32 Pawnbrokers, Secondhand Dealers and Junk Dealers**
- 5.60 Franchises**
- 5.64 Vendor, Peddler, Solicitor, and Miscellaneous Merchant  
Business Licenses**
- 5.67 Short-term Rental Licenses**
- 5.80 Home Occupation Licenses**



**Chapter 5.04**  
**BUSINESS LICENSES GENERALLY**

Sections:

<b>5.04.010</b>	<b>Business license required.</b>
<b>5.04.015</b>	<b>License compliance.</b>
<b>5.04.020</b>	<b>Business license fee.</b>
<b>5.04.030</b>	<b>Application.</b>
<b>5.04.040</b>	<b>Grounds for denial.</b>
<b>5.04.050</b>	<b>Appeal of license denial.</b>
<b>5.04.060</b>	<b>License term, renewal, display, change of address.</b>
<b>5.04.070</b>	<b>Assignment prohibited, application upon transfer.</b>
<b>5.04.080</b>	<b>License revocation, grounds.</b>
<b>5.04.090</b>	<b>Revocation procedure, right to cure.</b>
<b>5.04.100</b>	<b>Collection action.</b>
<b>5.04.110</b>	<b>Name Change.</b>

**5.04.010 Business license required.**

A. No person shall engage in or carry on any business, trade, profession, or enterprise within the City of Moab without first obtaining a business license as required by this chapter.

1. Persons doing business within the City of Moab who possess a valid Grand County business license shall be exempt from further licensure by the City for the business, provided Grand County shall continue to similarly exempt City licensees doing business in Grand County from further licensure, and provided that a copy of such County license is provided to the City by the licensee.

B. The term “business” shall be defined as the making, offering, buying, or selling of goods or services in exchange for consideration, payment, or other value. The term “business” shall not be defined to include:

1. The acts of employees in performing services for employers;
2. Occasional or incidental sales by City or County residents which are not conducted as part of a person’s regular trade or profession. Such activity shall not exceed three days per year, except as otherwise provided for in this chapter; or
3. Sales of farm produce where such sales are conducted by persons who produce such items and the sales are conducted on private property. “Farm produce” shall be defined to mean fresh fruit, vegetables, herbs, or grains.

C. Violation of this section may be punishable to the extent permitted by the Utah Code, and/or by civil action to enjoin or abate the violation. Proof of a violation of this section

shall be sufficient to obtain an injunction. In the event of civil enforcement, the City may recover its reasonable attorney fees and court costs against the violator.

#### **5.04.015 License compliance.**

No license shall be issued by an official or employee vested with the duty and authority to issue licenses that would not be in conformance with the provisions of this title. Any license so issued shall be null and void.

#### **5.04.020 Business license fee.**

A. From time to time the City Council will adopt an ordinance updating business license fees for businesses operating within the City limits. Fees shall be categorized for each class of business.

B. Fees shall be calculated, to the extent possible, to proportionately recoup costs for City services, regulatory costs, and staff time. Additional fees over the base business license fee are authorized for particular businesses generating disproportionate impacts upon City services.

1. “City services” subject to consideration in establishing business license fees shall include basic costs for City administration in addition to specific costs incurred by the City for public utilities, police protection, fire and public safety, stormwater control, traffic control, parking, transportation, beautification, and snow removal.
2. “Disproportionate impacts” shall be defined as businesses generating demands for services in excess of the per business statistical average of demand for services of all businesses within the City.
3. City staff is authorized to periodically review business classifications, the license fee rates in relation to actual costs, any changes in the relative demands for City services by businesses, and to make recommendations to the City Council for changes or adjustments to the fee structure.

#### **5.04.030 Application.**

A. Persons wishing to obtain a business license shall submit an application with the City Treasurer’s office containing the following:

1. The name and address of the applicant, telephone number, trade name, and type of business entity of the applicant;
2. The business address;

3. A description of the type of business;
4. The Utah State Tax Commission's sales tax license number of the applicant (if applicable) within thirty days of application; and
5. Any other information deemed necessary by the Treasurer's office to process the application, including but without limitation, information concerning municipal code compliance, zoning compliance for the business address, parking compliance, hours of operation, health code compliance, building code compliance, fire code compliance, business name as registered with the Utah State Tax Commission, access requirements, and any other state, federal, or City licensure requirements.

B. A business license application shall be executed by the applicant or its authorized agent, who shall certify that all statements contained in the application are true and correct to the best of the applicant's knowledge, information, and belief.

C. An application is complete when the application form and all supplemental information required by the City is provided by the applicant, the document is signed, and the applicable business license fee is paid to the City.

D. A completed application shall be approved or denied within ten business days of submittal. Where an application does not meet all approval criteria, but the applicant can demonstrate the ability to comply within a reasonable period of time, the Treasurer may conditionally approve the license subject to compliance with specified conditions within a specified time period.

E. Applicants who request cancellation of a license application prior to approval of said license shall be refunded fifty percent of the license fee. No refunds shall be granted after the license has been approved.

#### **5.04.040 Grounds for license denial.**

- A. An application for a business license may be denied for any of the following grounds:
1. False, inaccurate, or misleading statements by the applicant in the application for a business license or in any supporting documents;
  2. Municipal code violations, including but without limitation, violations of zoning, sign, building, health, or fire code provisions by the applicant or the property owner of the proposed place of business which are not corrected within the allotted time period following issuance of notice to the owner and/or applicant;
  3. The expiration, revocation, or denial of any federal, state, or City permits or licenses necessary for the legal operation of the business;

4. Failure by the applicant or the property owner to pay water, sewer, solid waste collection, or other City charges, fees, fines, or assessments owing;
5. Failure by the applicant to obtain or maintain a state sales tax license (if applicable); or
6. The use contemplated by the proposed business is not consistent with the zone in which the proposed business is to be located.

B. If a license is denied the applicant shall be entitled to a refund of the license fee, which shall be refunded within five business days.

#### **5.04.050 Appeal of license denial.**

An applicant denied a business license of any type shall be given written notice of the action from the City Treasurer. An aggrieved applicant may appeal a license denial to the City Manager by filing a written notice of appeal within five business days of the notice of decision. Failure to timely request an appeal shall result in waiver of the appeal right. The City Manager shall hear the appeal no later than fifteen business days from the date of the appeal notice. The City Manager may sustain the denial, grant the license, or grant the license subject to conditions.

#### **5.04.060 License term, renewal, display, change of address.**

A. Licenses granted under this section are valid from July 1 to June 30 of the following year and are renewable annually on or before June 30. The fee for any license issued after January 1 of each year shall be prorated to fifty percent of the applicable annual fee.

B. Licenses shall be renewed automatically upon payment of the license fee on or before July 1 of each year, provided there has been no change in the nature or classification of the business, and provided further that there are no outstanding municipal code violations or unpaid City charges, fees, fines, or assessments.

1. Licensees having outstanding code violations, unpaid charges, fees, fines, or unremitted sales taxes are not subject to renewal until said violations are abated and/or fees paid. Persons conducting business after expiration of their license are subject to the remedies and penalties described in Section 5.04.010 C.

C. Renewal license fees that are not paid within thirty days of the renewal date are subject to a fifteen percent late charge in addition to the total fee payable. Failure to pay all applicable license fees, together with late fees by August 15 of each year, shall result in automatic cancellation of the license.

D. Every license issued under this chapter shall be displayed in a visible location upon the licensed premises.

E. Licensees who wish to change business locations are required to apply for a business change of address prior to conducting business at the new location.

**5.04.070 Assignment prohibited, application upon transfer.**

A. No license issued under this chapter may be assigned or transferred to any person or entity not named therein; nor shall any license authorize any person other than the named licensee to do business at the licensed premises or any other location.

B. Upon the sale, conveyance, or transfer of a business or substantially all of the licensee's interest in a business, the new owner or transferee shall, within ten business days of completion of the conveyance or sale, apply for a business license.

**5.04.080 License revocation.**

The following shall be grounds for business license revocation:

1. False, inaccurate, or misleading statements made by the applicant in the application for a business license or in any supporting documentation;
2. Municipal code violations, including but without limitation, zoning, sign, building, health, or fire code provisions, by the licensee or the property owner of the business location which are not corrected within the allotted time period under Section 5.04.090, following issuance of notice of violation to the owner and/or licensee;
3. The expiration, revocation, or denial of any federal, state, or City licenses or permits necessary for the legal operation of the business;
4. Failure by the licensee or the property owner to pay water, sewer, solid waste collection, or other City charges, fees, fines, or assessments owing;
5. Failure by the licensee to obtain or maintain a sales tax license, failure to collect or remit sales tax, or violations of the sales tax law, if applicable;
6. The use of the licensed premises for any unlawful purpose or enterprise or the maintenance of a public nuisance, as defined by Utah law; or
7. Any violation of the Utah Alcoholic Beverage Control Act.

#### **5.04.090 Revocation procedure, right to cure.**

A. Prior to revocation, the City Treasurer shall issue a written notice of violation, which notice shall describe the nature of the violation, and permit the licensee a period of not less than ten business days in which to correct or abate the violation. The abatement period may be extended by action of the City Manager upon a showing of good cause. The notice shall also inform the licensee that the license will be revoked not less than ten business days from the date of notice if violation is not corrected within the ten-day period.

B. The notice shall be personally served or delivered by certified mail to the last known address of the licensee. The licensee shall be entitled to request a hearing by delivering a written request to the City any time prior to the effective date of the license revocation, as stated in the notice of violation. Failure to timely request a hearing shall be a waiver of the right to a hearing. Timely request for a hearing shall result in the revocation being stayed until completion of the hearing.

C. Hearings shall be conducted informally and shall be presided over by the City Manager. The licensee and the City Treasurer shall be permitted to offer any evidence or testimony in support of each position. Should the testimony, documents, or other evidence establish a violation, the license shall be revoked.

D. Following an informal hearing before the City Manager, a person aggrieved by any revocation may appeal the decision by delivering written notice of same within ten business days of the notice of decision. Timely notice of appeal will result in stay of the revocation pending the appeal hearing. Any appeal shall be heard by the City Council no later than twenty-one business days from the delivery of notice of appeal. The Council may sustain or overturn the decision.

E. Exhaustion of administrative remedies shall be a jurisdictional prerequisite to seeking judicial review.

F. Any person violating a revocation decision shall be subject to the remedies and penalties as described in Section 5.04.010 C.

#### **5.04.100 Collection action.**

The City may file a civil action against any business licensee or former licensee for any type or class of license to collect any unpaid business license fees, together with all applicable charges for water, sewer, solid waste collection, and any other charges, fees, assessments or penalties chargeable to the business, together with reasonable costs of collection, including attorney fees and court costs.

#### **5.04.110 Name change.**

The licensee shall not change the name of the business establishment until the licensee provides written notice to the City Treasurer ten days prior to the name change, and pays the name change fee.

**Chapter 5.08**  
**TRANSIENT MERCHANTS**

[This Chapter is repealed in its entirety.]



**Chapter 5.09**  
**SPECIAL EVENT PERMITS**

[This Chapter is repealed in its entirety and replaced by proposed MMC Title 4.]

**Chapter 5.14**  
**LOCAL VENDORS, PEDDLERS AND SOLICITORS**

[This Chapter is repealed in its entirety and replaced by proposed MMC Chapter 5.64.]

**Chapter 5.20  
ALCOHOLIC BEVERAGES<sup>1</sup>**

Sections:

**ARTICLE I. DEFINITIONS**

- 5.20.010** Scope.
- 5.20.020** Alcoholic beverages.
- 5.20.030** Beer.
- 5.20.031** Beer retailer.
- 5.20.032** Beer wholesaler.
- 5.20.035** Community location.
- 5.20.040** Licensed premises.
- 5.20.050** Liquor.
- 5.20.060** Nuisance.
- 5.20.070** Place of business.
- 5.20.075** Premises.
- 5.20.080** Restaurant.
- 5.20.090** Retailer.
- 5.20.100** Sell or to sell.

**ARTICLE II. LICENSES & LOCAL CONSENT**

- 5.20.115** Alcoholic beverage sales regulated.
- 5.20.120** Wholesale sale of beer.
- 5.20.130** Retail sale of alcoholic beverages.
- 5.20.140** Purchase of -alcoholic beverages for resale.
- 5.20.150** Alcohol license classification and local consent--  
Generally.
- 5.20.180** Off-Premise beer retail license.
- 5.20.200** Application--Generally.
- 5.20.210** Application--Police department referral.
- 5.20.220** Application--Health department referral.
- 5.20.230** Expiration.
- 5.20.240** Forfeiture.
- 5.20.250** Fees.
- 5.20.270** Refusal.
- 5.20.280** Revocation.
- 5.20.290** Suspension.
- 5.20.300** Sublease, transfer or assignment prohibited.
- 5.20.310** Operation to conform with law.
- 5.20.320** Name change.
- 5.20.325** Violation – Penalty.

**ARTICLE III. GENERAL REGULATIONS**

- 5.20.340** Sale to intoxicated person prohibited.
- 5.20.345** Unlawful to permit intoxicated persons on licensed  
premises.
- 5.20.350** Supplying to minors prohibited.

- 5.20.355 Possession of alcoholic beverages prohibited by minors--Exception.**
- 5.20.360 Consumption of alcohol in public places.**
- 5.20.370 City-sponsored public events.**
- 5.20.380 Nuisance prohibited.**
- 5.20.400 Minimum light and open view required in licensed premises.**
- 5.20.410 Adulterated alcoholic beverage.**
- 5.20.420 Consumption prohibited in unlicensed premises.**
- 5.20.430 Supply to person whose permit is suspended.**
- 5.20.440 Supply to prohibited persons.**

## **ARTICLE I. DEFINITIONS**

### **5.20.010 Scope.**

The words and phrases used in this chapter shall have the meaning specified in the State of Utah Alcoholic Beverage Control Act unless a different meaning is clearly evident or specified.

### **5.20.020 Alcoholic beverages.**

“Alcoholic beverages” means and includes “beer” and “liquor” as they are defined herein.

### **5.20.030 Beer.**

“Beer,” “light beer,” “malt liquor,” or “malt beverages” means all products that contain at least 0.5% alcohol by volume, but not more than 4% alcohol by volume or 3.2% by weight, and are obtained by fermentation, infusion, or decoction of any malted grain.

### **5.20.031 Beer retailer.**

“Beer retailer” means any person engaged in the sale or distribution of beer to the consumer.

### **5.20.032 Beer wholesaler.**

“Beer Wholesaler” means any person other than a brewer or retailer engaged in importation for sale or in the sale of beer in wholesale or jobbing quantities.

**5.20.035 Community location.**

“Community location” means:

- A. A public or private school;
- B. A place of worship;
- C. A public library;
- D. A public playground; or
- E. A public park.

**5.20.040 Licensed premises.**

“Licensed premises” means any room, house, building, structure or place occupied by any person licensed to sell or to allow the consumption of alcoholic beverages on such premises under this title. Multiple beer or liquor dispensing facilities located in one building and owned or leased by one licensed applicant shall be deemed to be only one licensed premises; provided, that each dispensing point must be designated and the appropriate fee(s) paid and the license prominently displayed at each dispensing point.

**5.20.050 Liquor.**

“Liquor” means alcohol, or any alcoholic, spirituous, fermented, malt or other liquid or a combination of liquids, a part of which is spirituous, or fermented, and all other drinks or drinkable liquids, containing at least 0.5% alcohol by volume; Liquor includes wine and heavy beer, which is defined as beer that contains more than 4% of alcohol by volume. Liquor shall not include “beer” as defined in Section 5.20.030.

**5.20.060 Nuisance.**

“Nuisance” means any room, house, building, structure, place or licensed premises, where:

- A. Alcoholic beverages are manufactured, sold, kept, bartered, stored, given away or used contrary to the Alcoholic Beverage Control Act or this Chapter, or where persons resort for drinking alcoholic beverages contrary to the Alcoholic Beverage Control Act of Utah or this Chapter; or
- B. Intoxicated persons are permitted to loiter about, or profanity, indecent, immoral, loud or boisterous language or immoral or lewd conduct is permitted, or carried on; or

- C. Persons under the age of twenty-one are permitted to purchase or drink alcoholic beverages; or
- D. Laws or ordinances are violated by a licensee or its agents or patrons with the consent or knowledge of licensee upon such premises which tend to affect the public health, peace or morals; or
- E. Any sign is displayed which is obnoxious, gaudy, blatant or offensive.

**5.20.070 Place of business.**

- A. "Place of business," as used in connection with the issuance of an alcoholic beverage sales license shall be deemed to include cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and any other place where the general public is invited or admitted for business purposes, and shall also be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only 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 as herein defined.
- B. A "place of business" shall not be defined to include City-owned facilities, including parks, where such facility is used and occupied pursuant to a special event use license and alcoholic beverages are served in accordance with the license and all applicable City regulations, codes, and state statutes.

**5.20.075 Premises.**

"Premises" means any building, enclosure, room, equipment or other designated areas used in connection with the sale, storage, service, manufacture, distribution or consumption of alcoholic products, unless otherwise defined in this chapter or in the rules adopted by the Alcoholic Beverage Control Commission.

**5.20.080 Restaurant.**

"Restaurant," means any business establishment where a variety of foods are prepared and complete meals are served to the general public, located on a premises having adequate culinary fixtures for food preparation and dining accommodations, and that is engaged primarily in serving meals to the general public.

**5.20.100 Sell or offer for sale.**

"Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained,

whether done by a person as a principal, proprietor, agent, or as staff, unless otherwise defined in U.C.A. Title 32B, the Alcoholic Beverage Control Act.

## **ARTICLE II. LICENSES AND LOCAL CONSENT**

### **5.20.115 Alcoholic beverage sales regulated.**

The City of Moab regulates the sales and commercial serving of alcoholic beverages in accordance with all applicable sections of Utah Code Annotated, Title 32B, unless a provision of this Chapter specifies a distinct procedure or parameter.

### **5.20.120 Wholesale sale of beer.**

It is unlawful for any person to engage in the business of selling beer at wholesale within the limits of the City without first obtaining a license therefor from the Alcoholic Beverage Control Commission of Utah.

### **5.20.130 Retail sale of alcoholic beverages.**

It is unlawful for any person to engage in the business of retail sales of alcoholic beverages within the corporate limits of the City without first having procured a license from the Alcoholic Beverage Control Commission of Utah. A separate state license shall be required for each place of sale and the license itself shall identify the specific premises covered thereby and such license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. 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.

### **5.20.140 Purchase of alcoholic beverages for resale.**

It is unlawful for any licensee to purchase or acquire or to have or possess for the purpose of sale or distribution any alcoholic beverages except that which he or she shall have lawfully purchased from a brewer, wholesaler, or retail outlet licensed under the provisions of the Alcoholic Beverage Control Act of Utah.

### **5.20.150 Retail Alcohol license classification and local consent-- Generally.**

- A. Any person who, at the time of applying for a business license, intends to operate a restaurant, bar, or special event where alcoholic beverages are sold for on-premise consumption, shall disclose that information on the application under this title.
- B. As provided by state statute, all potential licensees shall obtain written local consent from the City Manager before applying for an alcohol license from the State of Utah. Applicants subject to this section shall obtain and maintain a current valid Alcoholic Beverage license from the State of Utah, and shall comply with the procedures and standards contained in this title and in the Utah Alcoholic Beverage Control Act.
- C. Retail licenses shall be classified in accordance with the categories enumerated in the Utah Alcoholic Beverage Control Act, and shall carry the privileges and responsibilities hereinafter set forth in this chapter and in Utah state law.
- D. Nothing in this section or in section 5.20 shall be construed to supersede or waive any provision of the Utah Alcoholic Beverage Control Act, or to permit the distribution of alcoholic beverages other than as provided in the Utah Alcoholic Beverage Control Act.
- E. Issuance of a business license under this title shall not constitute “local consent” as defined by Title 32B of the Utah Alcoholic Beverage Control Act unless the applicant discloses its intent to serve alcoholic beverages and the application is processed in accordance with this section. Business licensees who later wish to obtain an alcoholic beverage license shall obtain the necessary local consent and alcoholic beverage license, as provided by City Code and state law.

#### **5.20.200 Application--Generally.**

All applications for local consent or licenses, for renewal or reissuance of local consent or licenses and for transfer of local consent or licenses authorized by this chapter shall be verified and filed with the City Manager, who, after determination of local consent, shall file the same with the City Treasurer. The application shall state the applicant’s name in full and must indicate compliance with the requirements specified in the Alcoholic Beverage Control Act. If the applicant is a copartnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors must be stated. If the business is to be operated by a person other than the applicant, such operator must join in the application and file the same information required of an applicant. It shall be grounds for revocation of the local consent or license for any business required to be licensed by this chapter, to be operated by any person who has not filed his or her operator’s information at the time or renewal for the license, or, if operation is assumed during the license period, at least ten days prior to assuming operation of the business.

The application and operator’s information must be subscribed by the applicant and operator who shall state under oath that the information contained therein is true.



The City shall adhere to the State of Utah's requirements regarding the proximity between community locations and establishments selling or serving alcohol as codified in U.C.A. 32B-1-202.

**5.20.210 Application--Police department referral.**

The application for such local consent or license, together with such information and certificate as is required by the City Manager to be attached thereto, shall be referred to the City Chief of Police for inspection and report. The Chief of Police shall, as soon as possible, after receiving such application, make a report to the City Manager relative to the granting or denying of such application. Upon receipt of the report, the City Manager shall act upon the application as it shall deem fair, just and proper in regard to granting or denying the same.

**5.20.220 Application--Health department referral.**

All applications for local consent filed in accordance with this chapter shall be referred to the health department who shall inspect the premises to be licensed to assure sanitary compliance with the laws of the state, the ordinances of the City and the rules and regulations of the health department. If the premises and all equipment used in the storage, distribution, or sale of alcohol fulfills all such sanitary requirements, the health department shall issue a permit to the licensee, a copy of which shall be attached to the application for local consent.

**5.20.230 Expiration.**

If the grantee of local consent to sell or serve alcohol is no longer currently and actively operating a business to sell alcohol, such local consent shall expire within 90 days of the cessation of the grantee's alcohol sales.

**5.20.240 Forfeiture.**

If any licensee, licensed to do business under the provisions of this chapter, sells his or her place of business, together with the entire assets of the business, the local consent granted by the City shall expire and be forfeited.

**5.20.250 Fees.**

Fees for applications for local consent shall be adopted by City Council.

### **5.20.270 Refusal.**

The City Manager may, with or without a hearing at its discretion, when in its opinion it is necessary for the protection of public peace or morals, refuse to grant any license or local consent applied for, at any time and in no such case need any cause be stated.

### **5.20.280 Revocation.**

Licenses or local consent may be suspended or revoked by the City Manager for the violation on the licensed premises of any provision of this chapter or of any other applicable ordinance or law relating to alcoholic beverages, or if the licensed premises is used for the commission of any illegal act or activity by any person, or if the person to whom the state license was issued no longer possesses the qualifications required by this chapter and the statutes of the state. The City reserves the right to revoke local consent at any time, even after an alcohol license has been granted by the State of Utah. Upon the revocation of local consent, such licensee must immediately cease selling or serving alcohol.

### **5.20.290 Suspension.**

All licenses or local consent issued pursuant to this chapter may be suspended by the City Manager without a prior hearing. Immediately following any suspension order issued without a prior hearing, notice shall be given such licensee, advising of the licensee's right to a prompt hearing, to be held within seventy-two hours of the suspension, and listing the cause or causes for such suspension. If a cause for the suspension is established at the hearing, the suspension order may be continued for up to one year in duration. However, no license or local consent shall be revoked or suspended beyond the initial hearing without first establishing cause thereof, nor shall any license be revoked without first giving the licensee an opportunity for a hearing on the causes specified for revocation. It is unlawful for any person to sell alcoholic beverages at licensed premises during the period of suspension of a license or local consent.

### **5.20.300 Sublease, transfer or assignment prohibited.**

No license or local consent may be transferred, assigned, or subleased in any manner, whether to another person or business entity, or to another location. Any violations of this section shall be grounds for revocation of the license or local consent, or refusal to renew or issue the license or local consent. Any fees paid by the licensee to the City for local consent or a license shall be forfeited to the City.

### **5.20.310 Operation to conform with law.**

The licensee shall be responsible for the operation of the business in conformance with City ordinances, and it shall be grounds for revocation of the license or local consent if a violation of such ordinance occurs through an act of a licensee, operator, employee, agent, or by a person who is allowed to perform for patrons of the licensee's business, whether or not such person is paid by the licensee for such performance.

**5.20.320 Name change.**

The licensee shall not change the name of the business establishment until he or she has given written notice to the City ten days prior to the name change, and has paid a name change fee.

**5.20.325 Violation--Penalty.**

Any person who shall engage in the business of retail selling of alcoholic beverages within the corporate limits of the City without having an appropriate state license therefor, or whose license has been revoked, suspended or canceled, or who shall violate any of the terms, clauses or conditions of this Chapter shall be guilty of a Class B misdemeanor.

**ARTICLE III. GENERAL REGULATIONS**

**5.20.340 Sale to intoxicated person prohibited.**

It is unlawful and constitutes an offense of strict liability for any person to sell an alcoholic beverage to any intoxicated person or to any person under the influence of a controlled substance.

**5.20.345 Unlawful to permit intoxicated persons on licensed premises.**

It is unlawful and constitutes an offense of strict liability for any person licensed to sell alcoholic beverages or for any of his or her agents or employees to allow intoxicated persons to enter or remain in any licensed premises.

**5.20.350 Supplying to minors prohibited.**

It is unlawful for alcoholic beverages to be given, sold or otherwise supplied to any person under the age of twenty-one years, but this shall not apply to the supplying of liquor to such person for medicinal purposes only by the parent or guardian of such

person or to the administering of liquor to such person by a physician in accordance with the provisions of this chapter and U.C.A Title 32B.

**5.20.355 Possession of alcoholic beverages prohibited to minors--  
Exception.**

It is unlawful and constitutes an offense of strict liability for any person under the age of twenty-one years of age to purchase, accept or have in his or her possession an alcoholic beverage, including beer or intoxicating liquor; provided, however, that this section shall not apply to the acceptance of alcoholic beverages by such person for medicinal purposes supplied only by the parent or guardian of such person or the administering of such alcoholic beverage by a physician in accordance with the law; provided further, that the provision of the section prohibiting possession of beer shall not apply to persons under twenty-one years of age who are bona fide employees in an off-premise beer retail establishment while in the discharge of their employment therein or thereabouts.

**5.20.360 Consumption of alcohol in public places.**

No person shall consume, serve, or distribute alcoholic beverages in a public street, sidewalk, alley, building, park, or facility, except in conformity with the provisions of this Title section. Violation of this section is a strict liability offense punishable as a Class C misdemeanor.

**5.20.370 Alcohol at City-sponsored public events.**

The City may hold public events where alcohol is served. Where the City does so, it shall contract with a separate alcohol vendor, who shall procure the necessary alcohol event license and the liability insurance as required by Title 4. The alcohol vendor shall be the event sponsor for purposes of all alcohol-related compliance under this section. If the City holds the event it has discretion to waive or modify the other requirements of Title 4.

**5.20.380 Nuisance prohibited.**

It is unlawful and constitutes an offense of strict liability for any person to keep or maintain a nuisance as the same is defined in this chapter.

**5.20.410 Adulterated alcoholic beverage.**

It is unlawful for any person to mix or permit or cause to be mixed with any alcoholic beverage offered for sale, sold or supplied by him or her as a beverage, any drug or any

form of methylic alcohol or any crude, unrectified or impure form of ethylic alcohol or any other deleterious substance or liquid.

**5.20.420 Consumption prohibited in unlicensed premises.**

It is unlawful for any person to consume liquor in an unlicensed place of business as provided herein.

**5.20.430 Supply to person whose license is suspended or revoked.**

It is unlawful for any person to procure or supply or assist directly or indirectly in procuring or supplying liquor for or to any persons whose license is suspended, cancelled, or revoked.

**5.20.440 Supply to prohibited persons.**

It is unlawful, except in the case of liquor supplied upon the prescription of a physician, or administered by a physician or dentist, or health care facility in accordance with state statute, for any person to procure for, sell, or give any alcohol, to an insane or interdicted person, nor directly or indirectly assist in procuring or supplying any liquor to any such person.

<sup>1</sup> For State Alcoholic Beverage Act, see U.C.A. Title 32B.

**Chapter 5.21**  
**REGULATING THE RETAIL SALE OF TOBACCO PRODUCTS**

Sections:

**5.21.010 Tobacco product sales regulated.**

**5.21.010 Tobacco product sales regulated.**

The City of Moab shall regulate the retail sale of tobacco products in accordance with all applicable, enacted sections of Utah Code Annotated.

## **Chapter 5.32 PAWNBROKERS**

Sections:

- 5.32.010 Definitions.**
- 5.32.020 Records to be kept – Availability to peace officers.**
- 5.32.040 Articles kept – Term.**
- 5.32.060 License – Revocation.**

### **5.32.010 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings below respectively ascribed to them:

- A. “Pawnbroker” means a person engaged in, conducting, managing, or carrying on the business of pawnbroking, or the business of loaning money for himself or for any other person, receiving as security for the repayment thereof pawns or pledges of personal property, or the business of purchasing personal property and reselling or agreeing to resell such article to customers or merchants, their personal representatives or their assignees at prices agreed upon at or before the time of such purchase, whether such business is the principal or sole business so carried on, or is merely incidental to or in connection with a branch or department of some other business.
- B. “Pawnshop” means any room, store or place in which pawnbroking is engaged in, carried on or conducted.

### **5.32.020 Records to be kept – Availability to peace officers.**

Pawnbrokers shall keep records containing a description of all articles received by them, the amounts paid therefor or advanced thereon, a general description of the person from whom received, together with his or her name and address and the date of the transaction. Such records shall at all reasonable times be accessible to any peace officer who demands an inspection thereof, and any further information regarding such transactions that the peace officer may require shall be given by pawnbrokers to the best of their ability.

### **5.32.040 Articles kept – Term.**

No pawnbroker shall deface, alter, change, destroy, conceal, give away, sell or dispose of any goods, wares, merchandise or article before and until one week after the pawnbroker has acquired the article.

**5.32.060 License – Revocation.**

Any license of a pawnbroker may be revoked by the City Manager for any violation of this chapter.



## **Chapter 5.60 FRANCHISES**

Sections:

- 5.60.010 Application – Fee.**
- 5.60.020 Assignability.**
- 5.60.030 Forfeiture of rights upon unlawful assignment.**

### **5.60.010 Application – Fee.**

Whenever applications shall be made to the City Council for a franchise or grant of special privileges, or for an extension or renewal of any existing franchise or grant of special privileges, the applicant shall furnish to the City Recorder, for the use of the City Council, twelve copies of the proposed resolution or ordinance, and pay into the city treasury a fee of twenty-five dollars.

### **5.60.020 Assignability.**

All franchises and grants of special privileges shall be non-assignable without the express permission of the City Council, whether such limitation is set forth in the body of the franchise or grant or not. All assignments of franchises and special grants shall be in writing, and a copy thereof filed in City Recorder's Office before any such assignment or transfer will be recognized by the City.

### **5.60.030 Forfeiture of rights upon unlawful assignment.**

Any attempted assignment or transfer of a franchise or special privilege not made in accordance with the provisions of this chapter shall operate as a forfeiture of all the rights of the grantee therein given.

**Chapter 5.64**  
**VENDOR, PEDDLER, SOLICITOR, AND MISCELLANEOUS MERCHANT**  
**BUSINESS LICENSES**

Sections:

<b>5.64.010</b>	<b>Definitions.</b>
<b>5.64.020</b>	<b>Licenses – Required.</b>
<b>5.64.030</b>	<b>Exemptions.</b>
<b>5.64.040</b>	<b>License fees.</b>
<b>5.64.050</b>	<b>General operating standards.</b>
<b>5.64.060</b>	<b>Specific operating standards.</b>
<b>5.64.070</b>	<b>Prohibited practices.</b>
<b>5.64.080</b>	<b>Application.</b>
<b>5.64.085</b>	<b>License renewal – Criminal convictions.</b>
<b>5.64.090</b>	<b>Licenses – Issuance.</b>
<b>5.64.100</b>	<b>Modification of display apparatus, vehicle, or structure.</b>
<b>5.64.110</b>	<b>Grounds for denial.</b>
<b>5.64.120</b>	<b>Appeal of denial.</b>
<b>5.64.130</b>	<b>License – Display.</b>
<b>5.64.140</b>	<b>License – Fees.</b>
<b>5.64.150</b>	<b>License – Non-transferable.</b>
<b>5.64.160</b>	<b>License revocation, grounds.</b>
<b>5.64.170</b>	<b>License revocation – Notice, right to cure, procedure.</b>
<b>5.64.180</b>	<b>License – Term and renewal.</b>
<b>5.64.190</b>	<b>Agent for service of process.</b>

**5.64.010 Definitions.**

For purposes of this chapter:

- A. “Accoutrements” means additional items added for flavoring such as, but not limited to, seasonings, mustard, ketchup, and mayonnaise.
- B. “Cart” means a small mobile cart or wagon that occupies a temporary location on a sidewalk or private property and is a humanly propelled wheeled vehicle that may contain food or other items for sale.
- C. “Display apparatus” means a non-permanent structure such as a table, stand, wagon, tray, cart, canopy, tents with three sides open, or other displays for the sale of goods, merchandise, food, wares, or services. Teepees shall be allowed if 75% of the sides are open and the interior is visible, from outside the teepee, to at least 7 vertical feet from the ground.
- D. “Farm produce” means fresh fruit, vegetables, herbs, eggs, or grains.

E. “Miscellaneous merchant” means any licensee conducting business that does not meet the criteria of a peddler, solicitor, or vendor as defined in this chapter.

F. “Month” means a period of thirty consecutive days regardless of the calendar month.

G. “Non-motorized trail system” means a paved or unpaved government-constructed trail or path that is intended solely for pedestrian, bicycle, or equestrian use.

H. “Peddler” means any person who goes from house to house or business to business, carrying food, goods, wares, or merchandise and selling or offering the same for sale. Peddlers seek out customers and are only stopped while engaged in a business transaction. They are not stopped or parked waiting for customers to come to them.

Peddler shall not include persons going door to door requesting contributions or offering goods for sale for fundraising purposes, by volunteer representatives of qualified charitable organizations or schools. A qualified charitable organization is a nonprofit organization that qualifies for tax-exempt status according to the U.S. Treasury under Section 501(c)(3) of the Internal Revenue Code.

I. “School-sponsored event” means an activity or sale that generates money that is collected or paid to the school district or individual public school. The event must be overseen or sponsored by the school district, an individual public or private school, or a school group or club.

J. “Solicitor” means any person who goes from house to house or business to business, not carrying goods, wares, or merchandise, but taking orders for future delivery of goods, wares, merchandise, subscriptions, or services. A solicitor may also conduct sales by means of telephone solicitation, direct mail, email, distributing fliers, or internet offers.

Solicitor shall not include persons going door to door requesting contributions or offering goods for sale for fundraising purposes, by volunteer representatives of qualified charitable organizations or schools, nor shall it include persons carrying out petitioning activity or serving political candidates or causes. A qualified charitable organization is a nonprofit organization that qualifies for tax-exempt status according to the U.S. Treasury under Section 501(c)(3) of the Internal Revenue Code.

K. “Stationary mobile cart” means a cart having functional wheels and an axle that occupies one temporary location for a specified period of time.

L. “Vehicle” means a motorized vehicle used for displaying, storing or transporting of articles offered for sale by a vendor, peddler or solicitor and is currently licensed and registered by the Department of Motor Vehicles.

M. “Vendor” means any person, firm, or corporation engaged in the business of selling food, goods, services, wares, or merchandise from a vehicle, trailer, cart, human-powered cycle, backpack, basket, or other display apparatus within the City, and who, in furtherance of such purpose, leases, uses, or occupies any street, sidewalk, or private property. The term “vendor” includes:

1. Street vendors;

2. Sidewalk vendors; and
3. Private property vendors.

N. “Vendor, food” means any street vendor, sidewalk vendor, or private property vendor that sells foodstuffs, edibles, beverages, ice cream, confectionery, or other edible products upon any public street, road, alley, curb or sidewalk, or on private property.

O. “Vendor, limited” means a vendor that legally engages in business within City limits for a specified period of time not to exceed twenty-nine days.

P. “Vendor, long-term” means a vendor that legally engages in business within City limits for a renewable term of one to twelve months.

Q. “Vendor, private property” means any business that exhibits, displays, offers for sale or sells any food, beverages, goods, wares, or merchandise from a cart, fixed cart, stationary mobile cart, display apparatus, trailer, or vehicle located in a described location on private property. Merchandise may be displayed on display apparatus as defined above.

R. “Vendor, sidewalk” means a vendor that sells or offers for sale from temporary locations for limited durations on any public sidewalk (excluding City parks and Mill Creek Parkway) any goods, wares, merchandise, services, food, or beverages from a cart or by foot from a pack, basket or similar container, or handheld display.

S. “Vendor, street” means a vendor that travels by vehicle, human powered cycle, or other street-legal conveyance on public or private streets and who carries, conveys, or transports food, beverages, goods, wares, or merchandise and offers them for sale.

#### **5.64.020 Licenses--Required.**

A. All vendors, peddlers, and solicitors, and anyone using vending display apparatus to engage in business within the City, shall first obtain a business license as required by Chapter 5.04.

B. Each individual peddler or solicitor going door to door, or the company that employs them, must obtain a business license in his, her, or its name. Each individual peddler or solicitor must obtain a background check prior to conducting business in a residential area.

C. Applicant shall apply to the City Treasurer’s office and shall submit all information and fees required by Chapter 5.04 and Sections 5.64.040 and 5.64.080 for the specific type of vendor, peddler, or solicitor license.

#### **5.64.030 Exemptions.**

A. This Chapter shall not apply to school and City recreation sponsored sales or events, or to City contracted sales or events.

B. Vendors who conduct sales at a special event as defined in Title 4 are exempt from the provisions of this Chapter, provided the responsible organization which holds the special event permit lists the vendor on an approved vendor list and the organization satisfies all City license and sales tax requirements as specified in Title 4.

C. Vendors who conduct sales at a convention or meeting where products or services are offered to registered members or guests and where the meeting or venue is not open to the general public shall be exempt from the provisions of this chapter.

D. This chapter shall not apply to sales of farm produce, as defined above, where such sales are conducted by persons who grow such items and sales are conducted on private property.

E. Temporary displays by a permanent business, as described in Section 5.64.060(E), are exempt from obtaining a separate license for the temporary display, however, they must adhere to the requirements outlined in Section 5.64.060(E).

#### **5.64.040 License fees.**

License fees shall be determined by the Moab City Council.

#### **5.64.050 General operating standards.**

A. The following requirements shall be met by all vendors.

1. Code compliance. Display apparatus, vehicles, and structures must meet all applicable building, health, and fire codes for the intended use. Display apparatus, vehicles, and structures require approval by the City Treasurer and locations of display apparatus, vehicles, and structures are limited to commercial zones unless otherwise permitted by the subsequent provisions of this Chapter.

2. Illegal camping. It is illegal for any vendor to camp on the selling site, in accordance with Chapter 8.20 and Section 10.04.230.

3. Refuse and recycling. Vendors are strongly encouraged to recycle. Vendors shall provide their own refuse/recycling containers and in no case shall City street receptacles be used for on-site vendor refuse and recycling.

a. All refuse and recycling containers shall be removed and securely stored at the close of each business day.

b. Every container shall have a cover.

c. Pickup of refuse/recyclables shall be made through a refuse service provider or through the host property owner. Written permission from the property owner or proof of other arrangements must be submitted with the

application. The City, at its discretion, may require applicants to obtain commercial refuse disposal service.

d. Food vendors involved in special events shall utilize the special event refuse plan.

e. Food vendors with seating areas shall have refuse and recycling containers emptied at the close of each business day.

f. Food vendors shall comply with all applicable requirements for the collection and disposal of grease.

4. **Area Maintenance.** All vendors shall maintain the permitted area, the display apparatus, and the immediate area within thirty feet surrounding the permitted area in a neat, clean, and hazard-free condition.

5. **Signs.** All signage shall be painted on or attached to the display apparatus, cart, or vehicle, and a drawing to scale or photograph of the proposed signage shall be included in the application. Signs on display apparatus shall not appear on devices that extend above the display apparatus except on umbrellas and canvas covers. Umbrella and cover signage shall relate only to the product being sold or the name of the business. Public poles, picnic tables, and trash receptacles shall not be used to display signs. Separate free-standing signs are prohibited.

6. **Business Access.** Vendor license applicants shall demonstrate that there is sufficient access, parking and maneuvering space available at the site on which the vendor will operate. Suitable, safe access by pedestrians shall be provided and no structure shall obstruct access to or from parking areas or sidewalks.

7. **Hours of Operation.** The hours of operation shall be limited to 7:00 a.m. to 10:00 p.m.

8. **Employee Restroom Facilities.** Restroom services for employees shall be provided by a written agreement between the property owner and the vendor. The written agreement must be submitted with the application to the City Treasurer.

9. **Noise Level.** Noise levels shall comply with the requirements of Chapter 17.74.

10. **Animals.** No live animals shall be attached to any vending vehicle, cart, stand, or display.

11. **Number of Parking Spaces.** Parking shall be provided by a written agreement between the property owner and the vendor or transient merchant. Said written agreement must be submitted with the application to the City Treasurer. One parking space per each temporary commercial structure shall be designated on the host property and shall be located so as not to reduce the number of parking spaces required for the permanent business.

- a. A parking exception may be granted by the City Manager if the applicant can adequately demonstrate that on-street parking is available, sufficient parking is provided elsewhere or customers largely walk up or would use short-term parking.
  - b. In no case shall the vending apparatus occupy parking spaces that reduce the amount of required parking for the host business.
12. Tents. The use of fully enclosed tents as apparatus is prohibited. A tent structure may be erected that is open on at least three sides.
13. Proximity to Special Event. Any vending apparatus that sets up within one hundred linear feet in a straight line of a special event shall ask permission from the event and appear on the special event list of vendors.
14. Zoning Compliance. No license shall be granted for a vendor unless allowed as a land use in the underlying zone(s) in which it operates except for vendors selling frozen food products.
15. Location. Except for sidewalk vendors, ice cream trucks / cycles, and vendors moving to the designated food court at the corner of 100 North and 100 West, all other vendors must get prior written approval for each location they intend to occupy.
16. Vehicles. All vehicles must be insured and registered with the Utah Department of Motor Vehicles.

**5.64.060 Specific operating standards.**

- A. Food Vendors. With the exception of vendors or peddlers selling frozen food in residential areas, all other food vendors shall follow the standards listed below:
- 1. Location. Business shall be conducted in commercial zones. The vehicle, structure, or display apparatus shall not block ingress or egress of any loading, parking, or emergency access areas of the property or reduce required parking.
  - 2. Structures.
    - a. Food vending apparatus, structures, and vehicles shall comply with all State of Utah health requirements.
    - b. Food vending apparatus must be constructed of durable materials, and be designed with smooth impervious surfaces for easy cleaning.
    - c. Carts shall be of sufficient lightweight construction that can be moved from place to place by one adult person without any auxiliary power.

- d. The total area occupied by a display apparatus or pushcart, together with the operator and any trash receptacle, cooler or chair, shall not exceed thirty-six square feet of space.
- e. Sidewalk vendor carts shall not exceed the dimensions of three feet wide, eight feet long, and eight feet high.
- f. Vehicles or structures serving food shall not exceed the dimensions of eight feet wide, twenty-five feet long, and ten feet high. If the proposed vehicle or structure is more than twenty-five feet long, the applicant must obtain written approval for this exception from the City Manager.
- g. Umbrellas or canopies shall be a minimum of seven feet above the sidewalk if they extend beyond the edge of the cart or vehicle.
- h. Seating may be provided to include a table and up to six seats. Seating areas shall be located near the display apparatus, structure, or vehicle and shall not exceed forty square feet in area.

**B. Street Vendors.** Street vendors using motorized vehicles shall follow the standards listed below:

1. **Location.** A street vendor may operate on public or private streets. Street vendors shall not conduct business on state highways.

a. Street vending vehicles shall not stop to conduct business in intersections or within crosswalks so that vehicular and pedestrian traffic will remain unhindered.

b. Street vending vehicles selling frozen products from vehicles may operate in residential areas provided that the vehicle continues to travel through neighborhoods with stops only to conduct sales. The vehicle must generally remain mobile and in no case shall the vehicle be parked longer than ten minutes in a single location for sales.

c. Street food vending apparatus must be designed as a single, self-contained unit, able to operate without the use of detached tables and counters, or require additional refrigeration facilities at the place of operation.

2. **Size of Vehicle.** Vehicles shall not exceed the dimensions of eight feet wide, twenty-five feet long, and ten feet high. If the proposed vehicle or structure is more than twenty-five feet long, the applicant must obtain written approval for this exception from the City Manager.

**C. Sidewalk Vendors.** Sidewalk vendors using human-propelled carts or cycles, packs, baskets, or handheld displays shall follow the display apparatus standards listed below:

1. **Location.** A sidewalk vendor may operate on the sidewalk in the public right-of-way with written permission from the City.



- a. No license shall be approved for locations on City non-motorized trail systems.
- b. Sidewalk vending apparatus shall not locate on corners or at intersections where it may cause line of sight issues for pedestrians or motorists. Carts shall be located so the flow of pedestrians is not impeded and be positioned along the route at the curbside of the sidewalk.
- c. Sidewalk vending apparatus shall not locate within ten feet of any doorway to an existing business.
- d. A minimum five feet of open sidewalk space for the passage of pedestrians shall be maintained at all times.

2. Carts.

- a. Sidewalk vendor carts shall not exceed the dimensions of three feet wide, eight feet long, and eight feet high.
- b. The area occupied by the cart, together with the operator and any trash receptacle, ice cooler or chair, shall not exceed thirty-five square feet of adjacent sidewalk space.
- c. The structures shall be moved on air-filled rubber tires and be of sufficiently lightweight construction that they can be moved from place to place by one adult person without auxiliary power.
- d. The device or cart shall not be motorized so as to move on its own power.
- e. Hard casters for wheels are prohibited

D. Private Property Vendors.

1. Location. All display apparatus shall be located on private property and in commercial zones.

2. Structures/Vehicles/Display Apparatus.

- a. Dimensions. No display apparatus shall exceed the dimensions of one hundred twenty square feet.
- b. Construction. All display apparatus shall be constructed in a sturdy manner so that there is no risk to the public of having the display apparatus collapse or break.
- c. Umbrellas Permitted. An umbrella or awning may be attached to the display apparatus or vehicle so as to shelter the vendor or customers.
  - i. Umbrellas or canopies shall provide a minimum of seven inches of head room above the ground.

- ii. Umbrellas or canopies shall not exceed one hundred twenty square feet in area.
- d. All accoutrements must be contained in a three-foot by five-foot area adjacent to the display apparatus, structure, or vehicle.
- e. Display apparatus that cannot be adequately secured during off-business times shall be removed from the property at the end of each working day.
- f. Vehicles or structures shall not exceed the dimensions of eight feet wide by twenty-five feet long and ten feet in height. If the proposed vehicle or structure is more than twenty-five feet long, the applicant must obtain written approval for this exception from the City Manager.
- g. Seating may be provided to include a table and up to seven seats.
- h. Private property vendors must meet all applicable zoning, building, health, and fire codes for the intended use.

E. Temporary Display--Permanent Business. A structure or display apparatus outside a permanent business shall not exceed twenty percent of the permanent business building's area. Apparatus must meet all applicable zoning, building, health, and fire codes for the intended use. Structures are limited to commercial zones and do not require a separate vendor license if they comply with the following:

1. Existing businesses may place racks, tables, tents, canopies, awnings, or outside displays of merchandise, food, or beverages at their permanent place of business if such displays are less than two hundred square feet in size.
2. Where located along public sidewalks, such displays shall be located as close as possible to the main business building.
3. A minimum clear sidewalk width of five feet shall be maintained for pedestrian traffic to pass.
4. All merchandise displays shall be removed at the end of each business day and stored indoors.
5. Any display or temporary structure shall not reduce the number of parking spaces for the permanent business and shall not obstruct ingress or egress to the business.
6. Temporary displays at a permanent business must be approved by the Zoning Administrator for compliance with zoning, required parking spaces, and sign codes, on a form provided by the City Treasurer.

**5.64.070 Prohibited practices.**

- A. It is unlawful for any vendor, transient merchant, peddler or solicitor to conduct business in such a manner as to impede or inconvenience any public use area, including, but not limited to, streets, alleys, sidewalks, and public rights-of-way.
- B. It is unlawful for any vendor, transient merchant, peddler or solicitor to:
1. Persist or remain on private property after the owner or occupant has directed the vendor, peddler, or solicitor to leave;
  2. Initiate telephone, mail, or in-person contact with a customer or prospective customer after that person has provided notice to the vendor, peddler, or solicitor requesting that all such contact shall cease;
  3. Engage in business between 10:00 p.m. and 7:00 a.m.
  4. Engage in a pattern of contacts, whether in person, by telephone, or via mail or computer which, viewed in terms of their frequency, duration, or content, are likely to be offensive, annoying, or disturbing to the recipient;
  5. Yell, sing, call out, or play recorded audio to passersby to interest them in the merchandise of the vendor, peddler or solicitor.

#### **5.64.080 Application.**

- A. Only complete applications will be accepted. Applications shall be submitted on a form provided by the City Treasurer and shall require the applicant to furnish the following items and information:
1. Name, business name, address, email, telephone number, drivers license number, and type of business entity of the vendor, peddler or solicitor.
  2. If applicable, the name, address, email, and telephone number of the company who employs or is represented by the vendor, transient merchant, peddler, or solicitor.
  3. Identification of the site or sites where the vendor, peddler, or solicitor will operate.
  4. Signed agreement with property owner that employees may use adjacent restroom facilities.
  5. All applicable license fees shall be paid in full at the time of application. License fees shall be refundable only under the terms and conditions stated in Section 5.04.030.E or 5.04.040.B. (Refer to the City's fee schedule for annual license fees.)
  6. A certificate of insurance is required for anyone operating on City property or in the rights-of-way.

7. A description of the display apparatus, structure, vehicle, cycle, or cart, if applicable, including photographs and/or scale drawings with construction plans and specifications of any vending apparatus to be used in the business for which the license application is filed. Include proof of insurance, the license plate number and current registration of motor vehicles, if any. The description/drawings shall show:

- a. Dimensions of the structure, display apparatus, vehicle, cycle, or cart, and all attached signage. Include drawings or photographs of the proposed signage.
- b. Site plan showing:
  - i. The complete perimeter of the property with dimensions.
  - ii. All existing structures and dimensions.
  - iii. All distances from buildings and property lines.
  - iv. Locations of all drives, parking areas, loading areas, and sign locations on the property.
  - v. Landscaped areas with dimensions.
  - vi. All easements impacting the property.
  - vii. All parking for the host property and highlighting the parking for the vendor business.

8. Identification of the length of time and/or specific dates during which the applicant proposes that such business be conducted, together with the proposed hours of operations.

9. All vendors, peddlers, and solicitors proposing operation in residential zones, must provide a complete record of the applicant with respect to any disqualifying criminal conviction, plea of no contest, disqualifying pending criminal charge, or plea currently being held in abeyance, or a statement by the applicant that no such conviction or pending charge exists, attested to by the applicant, in addition to obtaining a comprehensive, criminal background check. See Section 5.64.110.B. below regarding disqualifying criminal convictions for residential zones.

10. All peddlers and solicitors, whether operating in commercial or residential zones, must provide a complete record of the applicant with respect to any disqualifying criminal conviction, plea of no contest, disqualifying pending criminal charge, or plea currently being held in abeyance, or a statement by the applicant that no such conviction or pending charge exists, attested to by the applicant. See Section 5.64.110.C. below regarding disqualifying criminal convictions for peddlers and solicitors.

11. Except for food trucks as defined by U.C.A. 11-56-102, written evidence of compliance from the Zoning Administrator that the use is allowed in the zone in which the applicant proposes to operate.

12. Proof of a Utah State sales tax identification number in the applicant's name or business name, if applicable, and compliance with all other applicable state and federal requirements for the particular business for which a license is requested.
13. A description of the type of goods, wares, services or merchandise to be sold or offered for sale.
14. Except for food trucks as defined by U.C.A. 11-56-102, a written statement of authorization from the property owner(s) of the location(s) where the applicant intends to conduct business.
15. Payment of the applicable license fee, at the time of submittal of the application.
16. An inspection report from the Southeastern Utah Health District, dated not more than ten days prior to the date of application, if applicant proposes to handle or offer food or beverages for sale.
17. A refuse and recycling plan explaining how refuse and recycling disposal will be dealt with on site, including written permission from the host property owner to use the host's refuse removal service, if applicable.
18. A written agreement between the private property owner and the vendor regarding parking, unless an exception is granted pursuant to Section 5.64.050.11.a.

B. By signing the application, the applicant verifies that the condition, location, parking requirements and use of the structure, vehicle, cycle, cart, or display apparatus will comply with all City ordinances and other applicable codes.

**5.64.085 License renewal – Criminal convictions.**

- A. Before each license renewal, all vendors, peddlers, and solicitors operating in residential zones must provide an updated background check, completed within 30 days of the date of renewal. See section 5.64.110 regarding disqualifying criminal convictions.
- B. If a license subject to the requirements of this Chapter expires and is not renewed, that license is automatically cancelled, and the licensee must apply for a new license, including obtaining a current criminal background check, if proposing operation in residential areas.

**5.64.090 Licenses--Issuance.**

The City Treasurer shall review the application for completeness for licenses under this chapter. -If approved, the City Treasurer will issue a vendor, peddler, or solicitor license, showing:

- A. The number of the license;

- B. The date of issuance;
- C. The nature of the business authorized to be conducted;
- D. The license fee paid;
- E. The location(s) of the business;
- F. The license term; and
- G. The company name(s) of the person(s) authorized to conduct business.

**5.64.100 Modification of display apparatus, vehicle or structure.**

If the licensee, during any time of operation, wishes to modify the display apparatus, vehicle, or structure in a way that varies from the drawing or photo submitted at the time of application, the licensee must obtain prior approval from the City Treasurer. Failure to obtain prior approval for modification of any display apparatus, vehicle, or structure, or any failure to provide a complete list of items to be offered for sale is a violation of the license.

**5.64.110 Grounds for denial.**

A. A vendor, peddler, or solicitor license may be denied by the City Treasurer based upon any of the criteria in Section 5.04.040. In addition, the City Treasurer may base denial, in whole or in part, upon the existence of site-specific impacts of the proposed license which render it incompatible with neighboring uses, or a history of past violations or complaints.

B. Residential Zones. For applicants proposing operation in residential zones, grounds for denial will include findings from a criminal background check, or from the attestation of a criminal record by the applicant, that include any of the following. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Chapter.

1. Listing of the person on the sex offender registry or that the applicant is subject to an extended supervision order under the Serious Sex Offender Monitoring Act, at any time in the past;
2. Offenses against the Sex Offender Registration Act or the Serious Sex Offender Monitoring Act, at any time in the past;
3. An applicant has been convicted of, pled no contest to, has a pending charge, or has a current plea in abeyance for a crime involving:
  - a. The sale, distribution, or display of material harmful to minors; sexual performance by minors; contributing to the delinquency of a minor;

possession of child pornography; lewdness; obscenity; indecent exposure; public indecency; any crime involving sexual abuse or exploitation of a minor; sexual assault or aggravated sexual assault; rape; rape of a minor; object rape; object rape of a minor; forcible sodomy; sodomy on a minor; forcible sexual abuse; kidnapping; harboring a runaway minor; manslaughter; murder; or any attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense, at any time in the past; or

b. Any felony not listed in 5.64.110.B.3. above; arson; assault; robbery; burglary; theft; fraud; conversion; violations of consumer protection statutes; deceit; misrepresentation; false statements; dishonesty; extortion; larceny; forgery; false or bogus checks; prostitution; exploitation of prostitution; promotion of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; incest; any crime of violence not involving a sex act; driving under the influence of alcohol or drugs; criminal contempt; or any attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense, for which:

i. Less than two (2) years have elapsed from the date of conviction, if the conviction is a misdemeanor, or less than five (5) years if the convictions are of two (2) or more misdemeanors within the five (5) years; or

ii. Less than five (5) years have elapsed from the date of conviction if the offense is a felony;

4. Sale and/or delivery of drugs, or any violation under the Utah Controlled Substances Act or substantially similar state or federal statute if the conviction was within the past five years;

5. A history of consumer complaints against the applicant establishing unfair or dishonest trade practices, sales of shoddy, defective, or dangerous goods, or the like; or

6. Any crime that when considered, by the Chief of Police, with the activities of a vendor, peddler, or solicitor, indicates that the best interests of the public are not served by granting the applicant a license.

C. Peddlers and Solicitors. For applicants proposing peddling and soliciting in commercial and/or residential zones, grounds for denial will include findings from a criminal background check, or from the attestation of a criminal record by the applicant, that include any of the following:

1. An applicant has been convicted of, pled no contest to, has a pending charge, or has a current plea in abeyance for a crime involving: fraud; deceit; misrepresentation; false statements; dishonesty; extortion; larceny; forgery; false or bogus checks; kidnapping; perjury; burglary; robbery; theft; conversion; violation of consumer protection statutes; or any attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense, for which:
  - a. Less than two years have elapsed from the date of conviction, if the conviction is a misdemeanor, or less than five years if the convictions are of two (2) or more misdemeanors within the five years; or
  - b. Less than five years have elapsed from the date of conviction if the offense is a felony.
2. A history of consumer complaints against the applicant establishing unfair or dishonest trade practices, sales of shoddy, defective, or dangerous goods, or the like.
3. Any crime that when considered, by the Chief of Police, with the activities of a peddler or solicitor, indicates that the best interests of the public are not served by granting the applicant a license.

The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this Chapter.

#### **5.64.120 Appeal of denial.**

An applicant denied a vendor, peddler, or solicitor license by the City Treasurer may appeal that decision through the procedures outlined in Chapter 5.04.050. Exhaustion of administrative remedies and timely appeal shall be a jurisdictional prerequisite to judicial review.

#### **5.64.130 License – Display.**

- A. Vendors. The vendor license issued under this chapter shall be posted conspicuously in the place or places of business named therein.
- B. Peddlers and solicitors. Every licensed peddler and solicitor shall possess and display upon demand a copy of their business license.

#### **5.64.140 License – Fees.**

Vendor, peddler, and solicitor license fees shall be established pursuant to the procedures and criteria established in Section 5.04.020 and this chapter. The license



fees imposed by this chapter shall be in addition to any other fees applicable to the particular business use imposed by the provisions of this Code.

**5.64.150 License – Non-transferable.**

Any license issued pursuant to this chapter is not transferable by the licensee.

**5.64.160 License revocation – Grounds.**

Licenses under this chapter may be revoked by the City Manager for any of the causes specified in Section 5.04.080, in addition to the following:

- A. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise, or made on the application for a license or in the attestation to the licensee's criminal record;
- B. Any violation of the general or specific operating standards;
- C. Operation of the business licensed under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public; or
- D. Any criminal conviction, plea of no contest, pending charge, or plea in abeyance, of any disqualifying crime enumerated in Section 5.64.110.

**5.64.170 License revocation--Notice, right to cure, procedure.**

Notice of and the procedure for curing a revocation of a license issued under this chapter shall be pursuant to the procedures and requirements specified in Section 5.04.090.

**5.64.180 License—Term and renewal.**

All licenses issued under this chapter shall expire one year from the date of issuance, unless a prior date is specified. Licensees wishing to renew their license at the end of the specified term shall submit a renewal form and license fee at least thirty days prior to expiration. All renewals shall be reviewed for approval criteria by the City Treasurer. Licenses are renewable under the terms stated in Section 5.04.060.

**5.64.190 Agent for service of process.**

A. A condition upon the issuance of any peddler or solicitor license is the irrevocable consent by the licensee to the nomination of the City Recorder as its agent for service of process for any claims derived from the licensee's business activities within the City. Additionally, the licensee stipulates to venue in the courts of Grand County, Utah, for any action involving its business activities in the City.

B. Should the City Recorder be served with process for any licensed peddler or solicitor, a complete copy of the summons and complaint shall be mailed by certified mail, return receipt requested, to the licensee's business address, as contained in the City records. The City Recorder shall then notify the City Manager of the impending action and the nature of the complaint.

**Chapter 5.67**  
**NIGHTLY RENTAL LICENSES**

Sections:

- 5.67.010 Definitions.**
- 5.67.020 Licenses – Required.**
- 5.67.025 License fee.**
- 5.67.030 Application.**
- 5.67.040 Renewal – Term.**
- 5.67.050 Grounds for denial.**
- 5.67.060 Appeal of denial.**
- 5.67.065 Assignment prohibited, application upon transfer.**
- 5.67.070 License revocation, grounds.**
- 5.67.080 Revocation procedure, right to cure.**
- 5.67.090 Penalties.**
- 5.67.100 General operating standards.**

**5.67.010 Definitions.**

For purposes of this chapter:

- A. “Agent” means any legally authorized entity acting on behalf of a property owner, including but not limited to a property manager, a property management company, an executor of the owner’s estate, or other legal fiduciary.
- B. “Nightly Rental” also called short-term rental, means:
  - 1. The use, occupancy, rent or lease, for direct or indirect remuneration, of a structure or any portion thereof, constructed for single household or multi-household occupancy, or of any other residential property, or residential property within a commercial building, for a term of thirty consecutive days or less;
  - 2. The commercial use, by any person, of residential property, or residential property within a commercial building, for hostel, hotel, inn, lodging, motel, resort or other transient lodging uses, where the term of occupancy, possession or tenancy of the property is for a term of thirty consecutive days or less.
  - 3. For the purposes of this section, “remuneration” means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property.
  - 4. For purposes of this section, nightly rentals shall include bed and breakfasts.

**5.67.020 Licenses – Required.**

- A. No person shall operate or engage in any nightly rental activity within the City of Moab without first obtaining and maintaining a valid nightly rental business license as required by Chapter 5.04.
- B. Each owner of property within the City of Moab that is being used as a nightly rental must obtain a nightly rental license. An owner may allow his or her agent to apply for and obtain the nightly rental license, however, the license shall be in the property owner's name, and filed under the property owner's name in the City license records.
- C. Owners who own multiple nightly rental properties must obtain a separate license for each nightly rental property. Property managers and property management companies may not include multiple nightly rental properties in one license.
- D. If an owner of a nightly rental is using a D.B.A., that D.B.A. must be registered with the Utah Department of Commerce.
- E. The owner shall be the licensee, but the property manager or local representative, if applicable, shall be deemed the responsible party for purposes of operating standards and management standards.

**5.67.025 License fee.**

- A. From time to time the City Council may establish license fees for nightly rentals operating within the City limits. Fees shall be based on the total number of bedrooms in each nightly rental.

**5.67.030 Application.**

- A. The application for a nightly rental license shall include all of the items outlined in Chapter 5.04.030. The State sales tax ID number recorded must be obtained by and associated with the owner of the property being rented.
- B. The application shall also include written evidence of compliance from the zoning administrator that the use is allowed in the zoning district in which the applicant proposes to operate.
- C. The applicant must show that the facility meets minimum performance standards for off-street parking and landscaping as specified below in general operating standards.
- D. The applicant must provide plot plans and building or floor plans one-quarter inch to the foot showing the nightly rental, parking and landscaping. An inspection by the building inspector, fire chief and health department shall be required prior to issuance of a license and as often as necessary for enforcement of this chapter. The plans and the property itself must be approved by the building inspector, fire chief and health department prior to issuance of a license.

**5.67.040 Renewal – Term.**

The license for a nightly rental property shall be renewed annually on July 1, if all the conditions required at the time of the initial approval remain unchanged.

**5.67.050 Grounds for denial.**

An application for a nightly rental license may be denied for any of the grounds listed in Section 5.04.040, or for a failure to fulfill any of the application requirements.

**5.67.060 Appeal of denial.**

An appeal of a denial of a nightly rental business license shall follow the appeals procedure specified in Section 5.04.050.

**5.67.065 Assignment prohibited, application upon transfer.**

A. No license issued under this chapter may be assigned or transferred to any person or entity not named therein; nor shall any license be assigned or transferred to another nightly rental property, whether owned by the named licensee or by another person or business entity.

B. Upon the sale, conveyance, or transfer of a nightly rental property, the new owner or transferee shall, within ten business days of completion of the conveyance or sale, apply for a new nightly rental license, if he/she intends to operate a nightly rental on the premises.

**5.67.070 License revocation, grounds.**

A nightly rental license may be revoked for any of the grounds listed in Section 5.04.080, or for a violation of any of the operating standards or management standards set forth below.

**5.67.080 Revocation procedure, right to cure.**

The revocation procedure and appeal process shall follow the procedures outlined in Section 5.04.090.

**5.67.090 Penalties.**

A. Any owner and/or property manager of a dwelling within the City of Moab who allows or permits occupation of said dwelling as a nightly rental, as defined herein, without having first obtained a business license in accordance with the provisions of this section shall be guilty of a Class A misdemeanor. The fine for a Class A misdemeanor shall be imposed for each day that the violation continued or continues to be committed

B. Any other violation of this Chapter may be punishable, at the election of the City, as a Class A misdemeanor, as defined under the Utah Code, or by civil action to enjoin or abate the violation. The fine for a Class A misdemeanor shall be imposed for each day that the violation continued or continues to be committed. Proof of a violation of this section shall be sufficient to obtain an injunction. In the event of civil enforcement, the City may recover its reasonable attorney fees and court costs against the violator.

#### **5.67.100 General operating standards.**

Nightly rentals may be allowed where the applicant can show evidence of compliance with the standards and procedures outlined below, and where there is minimal impact on adjacent properties and neighborhoods.

A. No license shall be granted for a nightly rental operation unless allowed as a land use in the underlying zoning district(s) in which it operates.

B. The nightly rental must meet all applicable building, health and fire codes for the intended use.

C. A maximum stay at a nightly rental by an individual or particular group shall not exceed thirty consecutive days.

D. No nightly rental shall rent for compensation more than five bedrooms in any one property under one license.

E. Maximum occupancy of any nightly rental shall be ten (10) persons at any one time. If, however, the property has a fire sprinkler system or other fire suppression system acceptable to the Moab Fire Chief, and the owner obtains written approval from the Fire Chief, a greater maximum occupancy may be approved by the City Treasurer.

F. Each sleeping room must be equipped with smoke and CO (carbon monoxide) detectors.

G. All nightly rental owners or property managers must collect and pay the applicable State transient room tax, State sales tax, City Resort Communities Sales Tax, City Municipal Transient Rooms Tax, and pay the City gross business license fee.

H. Water and sewer impact fees for nightly rentals shall be calculated pursuant to Chapter 13.25 of the Moab Code.

I. Water and sewer rates for nightly rentals shall be calculated according to the rate formulas contained in Chapter 13.24 of the Moab Code.

J. The owner or property manager shall provide information on current or past occupants to police, emergency, or City personnel as requested. The owner or property manager shall respond to complaints and concerns within one hour of any phone call or other notification. Failure of the owner or property manager to respond in a timely manner may result in a violation and possible fines to the owner and/or property manager, or revocation of the nightly rental license.

**Chapter 5.80**  
**HOME OCCUPATION LICENSES**

Sections:

- 5.80.010 Purpose and definitions.**
- 5.80.020 Home occupation licenses.**
- 5.80.030 Application.**
- 5.80.040 Fees.**
- 5.80.050 General operating standards.**
- 5.80.060 Prohibited home occupations and uses.**
- 5.80.070 Enforcement and revocation.**

**5.80.010 Purpose and definitions.**

A. Purpose.

This section is established to provide an opportunity for home occupations as an accessory use when they are compatible with the neighborhoods in which they are located. The intent is to safeguard the peace, quiet, and domestic tranquility within all residential neighborhoods, and to protect residents from the adverse effects of commercial uses that may create a significant impact on a neighborhood.

B. Definitions.

1. A home occupation is any use, occupation or activity, conducted entirely within a dwelling and/or accessory building, which is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the residential character of the dwelling or the surrounding neighborhood.
2. A home occupation may be allowed as an accessory use to a dwelling in the A-2, RA-1, R-1, R-2, R-3, R-4 and MH/RV-1 zones.
3. A home occupation shall not be construed to mean an employee working in his or her home in the service of an employer whose principal place of business is licensed at another location.
4. Notwithstanding anything herein to the contrary, a home occupation license is not required for:
  - a. A business that is operated only occasionally by an individual who is under 18 years of age;
  - b. Garage and yard sales, provided there are no more than two garage or yard sales at a residence per calendar year; or
  - c. Sales of farm produce, such as fresh fruit, vegetables, herbs, eggs, or grains, where such sales are conducted by persons who grow such items and sales are conducted on private property.



### **5.80.020 Home occupation licenses.**

- A. Business License Required. Prior to commencing the home occupation the applicant shall apply for and maintain for the duration of the enterprise a business license, as specified in Chapter 5.04, from the City Manager.
- B. If the holder of the license relocates to another site, a new home occupation license is required. If a property changes ownership and it is desired by the new owner to continue the same home occupation, a new license is required.
- C. The license is not transferable to any individual or company other than the licensee.
- D. Any substantial change in the nature of the business use shall require the existing licensee to apply for and obtain a new home occupation license specific to the new business use or expansion.
- E. Businesses that conduct off-site sales (e.g., processing orders by mail, telephone or internet through a home office) must apply for a home occupation license as established in this section.

### **5.80.030 Application, renewal, and denial.**

- A. The application shall contain the following information: name of applicant, address of home occupation, proposed activity, and a statement of assurance that the applicant shall comply with the requirements of this section. The City Manager may require other information from the applicant, based on the nature of the business proposed.
- B. If the applicant is not the owner of the building or lot on which the request for a home occupation is located, the application must include a notarized letter signed by the owner agreeing to the proposed home occupation.
- C. Before receiving a license, the home occupation applicant shall submit written evidence of administrative approval from the zoning administrator regarding parking, access, and traffic, and that the use is appropriate in the zoning district in which the applicant proposes to operate.
- D. Following approval of the application and the other documents, a home occupation license, including any written terms conditional to its approval, shall be issued by the City to the applicant.
- E. All home occupation licenses shall be valid for one year and may be renewed annually, provided there have been no reported violations, complaints or detrimental characteristics which may, in the opinion of the City Manager, require termination of the home occupation.

G. The home occupation license may be denied for any of the grounds listed in Section 5.04.040. An applicant denied a business license shall be given written notice of the action by the City Treasurer.

H. Appeals of license denials must be submitted under the procedures outlined in Section 5.04.050.

#### **5.80.040. Fees.**

A. Fees shall be determined from time to time by the City Council.

B. A home occupation is exempt from the business license fee unless the combined offsite impact of the business, together with the primary residential use, is anticipated to or is shown to materially exceed the offsite impact of the primary residential use alone. The Code Compliance Officer, or other City employee as designated by the City Manager, shall determine the anticipation or existence of such impacts.

C. The following home occupations have been determined to have a combined off-site impact that materially exceeds the off-site impact of the primary residential use alone. These home occupations shall meet all requirements of this Chapter by obtaining a license and paying the necessary fee:

1. In-home child or adult care businesses;
2. Pre-schools;
3. Businesses that require or attract more than five (5) vehicle trips per day, including but not limited to package delivery, client or customer visits, and employee trips;
4. Any business that is required to have a fire inspection due to possible hazardous storage or activities;
5. Any home or property that requires any modification requiring a building permit to accommodate the business operations;
6. Any home occupation that creates a demand for City services, utility services, or community facilities, or that creates unusual amounts of waste, in excess of those services usually and customarily provided for residential uses;
7. Any home occupation where the combined offsite impact of the home occupation and the primary residential use materially exceeds the offsite impact of the primary residential use alone as determined by the City at its discretion after having inspected the home occupation in response to complaints from surrounding property owners.

#### **5.80.050 General operating standards.**

A. All home occupations must comply with the following standards and qualifications:

1. Code Compliance. There shall be complete conformity with fire, building, plumbing, electrical and all other City, County, State and Federal Codes.
2. Area. The home occupation activity shall be conducted entirely within the home of the applicant or an enclosed garage if said structure is located on the premises of the applicant. The total permissible square footage to be used for the home occupation shall not exceed twenty-five percent (25%) of the total ground floor square footage of the house, or one room, whichever is greater. Where an accessory building or a screened rear yard is used, no more than twenty-five percent (25%) of the total ground floor square footage of the house or six hundred square feet in area, whichever is less, shall be devoted to the home occupation.
3. Yard. No home businesses are allowed to operate outside of an enclosed structure, unless otherwise approved by the City Manager for outside activities. The home occupation shall not involve the use of any yard space for storage or display of supplies, inventory, or equipment, unless specifically stored within trailers or accessory structures. Any screened area or accessory structure used for the home occupation must be located in either the side or rear yard areas.
4. Internal or external alterations shall not be made to the dwelling or yard area that will change its residential character or the character of the neighborhood.
5. A home occupation shall not involve the installation of machinery or additional equipment other than that customary to normal household operations.
6. Signs. A person who engages in a home occupation shall not use advertisements, signs, window displays, or displays on or off the premises; provided, however, that this shall not be construed to regulate signage attached to vehicles.
7. Customers and clients. A home occupation shall not involve or result in the presence of more than two customers or clients on the premises at one time.
8. Noise. A home occupation shall not generate loud or raucous noise, or utilize mechanical, electrical or other equipment or items that produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building.
9. Equipment and explosives. A home occupation shall not involve the visible storage of equipment or materials, or the presence of highly explosive or combustible equipment.
10. Employees. At the discretion of staff and based upon site-specific considerations, home occupations may be permitted up to two employees who are not residents of the primary dwelling.

11. Vehicles and traffic.

- a. A home occupation shall not generate more traffic than the typical or average dwelling unit in a residential zone, with the exception of child daycares and preschools.
- b. The home occupation shall not involve the use of commercial vehicles, other than a taxi, a shuttle, or a standard delivery vehicle for delivery of materials to or from the premises. Each licensee is permitted to use and park on the licensed premises one commercial vehicle that has a rated capacity not to exceed one ton.
- c. No heavy equipment, heavy machinery, or vehicle having a gross weight of two thousand (2,000) pounds (one ton) or more may be stored outside a residence in connection with a home occupation.
- d. Parking spaces shall be provided for the dwelling and the home occupation in accordance with the specifications in Section 17.09.220, off-street parking and loading. The licensee shall provide developed off-street parking for the commercial vehicle used in the business and all employee vehicles. This provision excludes stops made by delivery vehicles.
- e. The home occupation shall not occupy any area required to satisfy off-street parking requirements.
- f. One trailer may be used in association with the home occupation, provided it meets the following criteria:
  - i. An open or enclosed trailer with a body length of 20 feet or less, excluding the tongue;
  - ii. Materials/equipment shall not be stored outside of the trailer;
  - iii. The trailer shall be parked in the side or rear yard, on an off-street parking area, or garaged on the property, and shall not be parked on the street in front of the house. If the home is located on a corner lot, the trailer shall not be stored on the side street of the house unless it is out of the required front yard setback. If the topography of the lot prohibits the parking of the trailer on the side or rear yard, the trailer must be stored off-site; and
  - iv. The trailer must be well-maintained, and must not present negative impacts for adjacent neighbors, including but not limited to: odors, dust, parking location, or driving visibility on the street.

B. Businesses that engage in some form of manufacturing or production shall be reviewed on a case-by-case basis for compatibility with adjacent properties and the neighborhood.

C. The City may place additional restrictions on a home occupation relating to hours of operation, parking, traffic or other matters as it deems necessary to mitigate impacts on the neighborhood and the City in general.

D. The City retains the right to inspect any and all premises licensed for home occupation during reasonable hours to determine compliance with the provisions of this title.

### **5.80.060 Prohibited Home Occupations and Uses.**

A. The following business uses and activities are not incidental to or compatible with residential activities, and are therefore prohibited as home occupations:

1. Automotive and other vehicle repair or service (body or mechanical), storage, painting or upholstery, or the repair, reconditioning, servicing, or manufacture of any internal combustion or diesel engines, or of any motor vehicle, including automobiles, trucks, ATV's, or boats, but excluding small engines such as lawnmowers;
2. Boutiques, sample sales, or craft shows;
3. Contractor's storage yards;
4. Exercise or dance studios (not including one-on-one personal trainers);
5. Junk, dismantling, salvage or scrap yards;
6. Kennel or veterinary clinic;
7. Medical or health clinic;
8. Mortuary, crematorium, columbarium, or mausoleum;
9. Nursing home;
10. Restaurant;
11. Retail sales of products to the public (except for off-site sales (e.g., processing orders by mail, telephone or internet through a home office, where there is no stock-in-trade on the site);
12. Sexually oriented businesses or adult entertainment activities;
13. Welding, ironworks, or machine shop operations;
14. Any uses which employ machinery or equipment that emits sound (e.g. saws, drills, musical instruments) that is detectable beyond the property;
15. Any uses which require explosives or highly combustible or toxic materials, or uses which change the fire safety of the premises, or uses which

employ the storage of flammable, explosive, chemical, or hazardous materials beyond those normally associated with a residential use;

16. Any uses which create electrical, magnetic, radio, or television interference, dust, fumes, gas, glare, excess light, noise, odor, smoke, toxic/hazardous materials, vibration, or other hazards or nuisances as determined by the City Manager;

17. Any other uses the City Manager determines to be similar to those listed above, or which substantially and unreasonably interfere with the use and enjoyment of adjacent or nearby property or interferes with public peace and comfort.

B. It shall be a violation of this Chapter if an existing home occupation licensee commits or practices any of the prohibited uses outlined above in the course of the licensee's home business activity.

#### **5.80.070. Enforcement and Revocation.**

A. Any person aggrieved by a violation or apparent violation of the provisions of this section may file a written complaint with the City's Code Compliance Officer, who shall investigate such complaint and take the appropriate action to have the violation penalized or removed, if such violation is found to exist.

B. Failure to meet any of the standards or rules contained in this Chapter, or a violation of any part of this Chapter, or a refusal or failure to abate any violation by the licensee, shall be unlawful and grounds for immediate revocation of the license.

C. Enforcement.

1. Prior to instituting any revocation or enforcement action for violations of the license or this code, the City shall deliver written notice of the violation to the licensee. The licensee shall have a period of not less than thirty days in which to abate or correct the violation, which period may be extended by the City Manager, upon a showing of good cause by the licensee.

2. Any violation not corrected within the abatement period may be subject to, at the option of the City, administrative, civil, and criminal enforcement. The City may commence a civil action to enjoin or abate any violation of this section. In any civil enforcement action, the City shall be entitled to obtain injunctive relief upon a showing of violation(s) of this section or the applicable home occupation license. The court may also assess civil penalties to the extent permitted by the Utah Code. The City shall be entitled to recover its reasonable attorney fees and court costs in any action in which a violation of this section is established.

3. Persons operating a business subject to this section without the required home occupation license, or in violation of Chapter 5.04, are subject to all remedies and penalties specified in this section.
4. Any license or approval granted, in whole or in part, as a result of false, inaccurate or misleading information supplied by the applicant or its agent shall confer no vested right upon the applicant, and may be subject to revocation following delivery of written notice to the applicant explaining the basis for the action. Any aggrieved party may appeal such revocation to the appeal authority by delivering notice of appeal within ten days of the notice of revocation.
5. Exhaustion of administrative remedies shall be a jurisdictional prerequisite to seeking judicial review.