



**CITY COUNCIL MEETING
OF THE CITY OF CEDAR HILLS
Tuesday, April 18, 2017 7:00 p.m.**

Notice is hereby given that the City Council of the City of Cedar Hills, Utah, will hold a **City Council Meeting on Tuesday, April 18, 2017, beginning at 7:00 p.m.** at the Community Recreation Center, 10640 N Clubhouse Drive, Cedar Hills, Utah. This is a public meeting and anyone is invited to attend.

COUNCIL MEETING

1. Call to Order, Pledge led by C. Zappala and Invocation given by C. Geddes
2. Approval of Meeting's Agenda
3. Public Comment: Time has been set aside for the public to express their ideas, concerns and comments (comments limited to 3 minutes per person with a total of 30 minutes for this item)

REPORTS/PRESENTATIONS/RECOGNITIONS

4. Representative Mike Kennedy & Senator Dan Hemmert – Legislative Update

PUBLIC HEARING

5. Conditional Use Permit for Marco's Pizza, located at 4800 W Cedar Hills Drive in the SC-1 Commercial Zone

CONSENT AGENDA (Consent items are only those which require no further discussion or are routine in nature. All items on the Consent Agenda are adopted by a single motion)

6. Minutes from the February 7, 2017 & March 7, 2017 Work Session & City Council Meetings

CITY REPORTS AND BUSINESS

7. City Manager
8. Mayor and Council

SCHEDULED ITEMS

9. Review/Action on a Conditional Use Permit for Marco's Pizza, located at 4800 West Cedar Hills Drive in the SC-1 Commercial Zone
10. Review/Action on Amendments to the City Code, Title 3 Related to Business Licensing
11. Motion to go into Closed Session pursuant to Utah State Code 52-4-204 & 52-4-205(1)(d) & (e) to discuss the purchase, exchange or lease of real property and to discuss the sale of real property
*** CLOSED SESSION ***
12. Motion to adjourn Closed Session and Reconvene City Council Meeting

ADJOURNMENT

13. Adjourn

Posted this 14th day of April, 2017

/s/ Colleen A. Mulvey, City Recorder

- Supporting documentation for this agenda is posted on the city's website at www.cedarhills.org.
- In accordance with the Americans with Disabilities Act, the City of Cedar Hills will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-785-9668 at least 48 hours in advance of the meeting.
- An Executive Session may be called to order pursuant to Utah State Code 54-4-204 & 54-4-205.
- The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public.
- This meeting may be held electronically via telephone to permit one or more of the council members to participate.



CITY OF CEDAR HILLS

TO:	Mayor and City Council
FROM:	Chandler Goodwin, City Manager
DATE:	April 18, 2017

City Council Agenda Item

SUBJECT:	Review/Action on approving a Conditional Use Permit in the SC-1 Zone for Marcos Pizza
APPLICANT PRESENTATION:	
STAFF PRESENTATION:	Chandler Goodwin, City Manager
BACKGROUND AND FINDINGS:	<p>Marcos Pizza is a national pizza chain specializing in carryout and delivery. The proposed location is part of the Amsource development and will be adjacent to Great Clips; the approximate address is 4800 W Cedar Hills Drive. A CUP is required for commercial uses in the SC-1 Zone, to be approved by the City Council with a public hearing. The proposal involves no changes to the exterior façade of the structure, and City Code 10-5-37 (E)(2) states, "the designated land use authority shall approve with conditions, or deny the application, or may defer action if there is insufficient application information provided." The Marcos site plan includes no changes to the approved Amsource development from 10-22-2014.</p>
PREVIOUS LEGISLATIVE ACTION:	N/A
FISCAL IMPACT:	N/A
SUPPORTING DOCUMENTS:	
RECOMMENDATION:	To approve a CUP for Marcos Pizza to be located in the SC-1 Commercial Zone.
MOTION:	To approve/not approve a Conditional Use Permit for Marcos Pizza subject to the following conditions {LIST ANY APPLICABLE CONDITIONS}.



CITY OF CEDAR HILLS

TO:	Mayor and City Council
FROM:	Chandler Goodwin, City Manager
DATE:	April 18, 2017

City Council Agenda Item

SUBJECT:	Review/Action on Amendments to the City Code, Title 3 Related to Business Licensing
APPLICANT PRESENTATION:	N/A
STAFF PRESENTATION:	Chandler Goodwin, City Manager
BACKGROUND AND FINDINGS:	
<p>Recently passed legislation SB0081 states: "A municipality may not require a license or permit for a business that is operated only occasionally; and by an individual who is under 18 years of age; or charge a license fee for a home based business, unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone." As a result of this legislation, Cedar Hills staff is in the process of drafting changes to Title 3 of the Cedar Hills Municipal Code that will take into effect the changes from the legislative session. A report and proposed code will be forthcoming.</p>	
PREVIOUS LEGISLATIVE ACTION:	
Utah State Legislature passed SB0081 and Governor Herbert signed into law during the 2017 legislative session.	
FISCAL IMPACT:	
Loss of approximately \$25,000 in business license fees	
SUPPORTING DOCUMENTS:	
A staff report and proposed code revisions are forthcoming	
RECOMMENDATION:	
To approve changes to the Cedar Hills municipal code to be in compliance with Utah State Code.	
MOTION:	
To approve/not approve changes to the Cedar Hills City Code Title 3 related to business licensing, subject to the following changes: {LIST ANY CANGES}.	

1

LOCAL GOVERNMENT LICENSING AMENDMENTS

2

2017 GENERAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: Jacob L. Anderegg

5

House Sponsor: Marc K. Roberts

6

LONG TITLE**General Description:**

This bill modifies provisions related to a municipality's or a county's authority to license a business.

Highlighted Provisions:

This bill:

- ▶ amends provisions authorizing a municipality or a county to license a business;
- ▶ prohibits a municipality or a county from requiring a license or charging a fee for certain home based businesses; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[10-1-203](#), as last amended by Laws of Utah 2016, Chapter 350

[17-53-216](#), as last amended by Laws of Utah 2008, Chapter 250

25

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-1-203** is amended to read:

10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" means the same as that term is defined in Section [10-1-402](#).

(c) "Telecommunications tax or fee" means the same as that term is defined in Section [10-1-402](#).

(2) Except as provided in Subsections (3) through (5) and (7)(a), and subject to Subsection (7)(b), the legislative body of a municipality may license for the purpose of regulation [and revenue] any business within the limits of the municipality, [and] may regulate that business by ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined

49 in Subsection [10-1-303\(6\)](#), that is in effect on July 1, 1997, or a future franchise.
 50 (ii) A franchise agreement as defined in Subsection [10-1-303\(6\)](#) in effect on January 1,
 51 1997, or a future franchise shall remain in full force and effect.
 52 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
 53 agreement as defined in Subsection [10-1-303\(6\)](#) with an energy supplier that is in effect on July
 54 1, 1997, may continue to collect that fee as provided in Subsection [10-1-310\(2\)](#).
 55 (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
 56 defined in Subsection [10-1-303\(6\)](#) between a municipality and an energy supplier may contain
 57 a provision that:

58 (A) requires the energy supplier by agreement to pay a contractual franchise fee that is
 59 otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and
 60 (B) imposes the contractual franchise fee on or after the day on which Part 3,
 61 Municipal Energy Sales and Use Tax Act is:
 62 (I) repealed, invalidated, or the maximum allowable rate provided in Section [10-1-305](#)
 63 is reduced; and
 64 (II) ~~is~~ not superseded by a law imposing a substantially equivalent tax.
 65 (ii) A municipality may not charge a contractual franchise fee under the provisions
 66 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise
 67 fee or a tax on all energy suppliers.
 68 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a
 69 municipality may raise revenue by levying and providing for the collection of a municipal
 70 telecommunications license tax as provided in Part 4, Municipal Telecommunications License
 71 Tax Act.
 72 (b) A municipality may not levy or collect a telecommunications tax or fee on a
 73 telecommunications provider except as provided in Part 4, Municipal Telecommunications
 74 License Tax Act.
 75 (5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by
 76 levying and collecting a license fee or tax on:
 77 (A) a parking service business in an amount that is less than or equal to:
 78 (I) \$1 per vehicle that parks at the parking service business; or
 79 (II) 2% of the gross receipts of the parking service business;
 80 (B) a public assembly or other related facility in an amount that is less than or equal to
 81 \$5 per ticket purchased from the public assembly or other related facility; and
 82 (C) subject to the limitations of Subsections (5)(c) and (d):
 83 (I) a business that causes disproportionate costs of municipal services; or
 84 (II) a purchaser from a business for which the municipality provides an enhanced level
 85 of municipal services.

86 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
 87 levy or collect a license fee or tax on a public assembly or other related facility owned and
 88 operated by another political subdivision other than a community reinvestment agency without
 89 the written consent of the other political subdivision.
 90 (b) As used in this Subsection (5):
 91 (i) "Municipal services" includes:
 92 (A) public utilities; and
 93 (B) services for:
 94 (I) police;
 95 (II) fire;
 96 (III) storm water runoff;
 97 (IV) traffic control;
 98 (V) parking;
 99 (VI) transportation;
 100 (VII) beautification; or
 101 (VIII) snow removal.
 102 (ii) "Parking service business" means a business:
 103 (A) that primarily provides off-street parking services for a public facility that is
 104 wholly or partially funded by public money;
 105 (B) that provides parking for one or more vehicles; and
 106 (C) that charges a fee for parking.
 107 (iii) "Public assembly or other related facility" means an assembly facility that:
 108 (A) is wholly or partially funded by public money;
 109 (B) is operated by a business; and
 110 (C) requires a person attending an event at the assembly facility to purchase a ticket.
 111 (c) (i) Before the legislative body of a municipality imposes a license fee on a business

112 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
 113 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax

114 under Subsection (5)(a)(i)(C)(I):

115 (A) the costs that constitute disproportionate costs; and

116 (B) the amounts that are reasonably related to the costs of the municipal services
 117 provided by the municipality.

118 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
 119 the costs of the municipal services provided by the municipality.

120 (d) (i) Before the legislative body of a municipality imposes a license fee on a
 121 purchaser from a business for which it provides an enhanced level of municipal services under
 122 Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance
 123 defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

124 (A) the level of municipal services that constitutes the basic level of municipal services
 125 in the municipality; and

126 (B) the amounts that are reasonably related to the costs of providing an enhanced level
 127 of municipal services in the municipality.

128 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to
 129 the costs of providing an enhanced level of the municipal services.

130 (6) All license fees and taxes shall be uniform in respect to the class upon which they
 131 are imposed.

132 (7) A municipality may not:

133 (a) require a license or permit for a business that is operated:

134 (i) only occasionally; and

135 (ii) by an individual who is under 18 years of age; or

136 (b) charge a license fee for a home based business, unless the combined offsite impact
 137 of the home based business and the primary residential use materially exceeds the offsite
 138 impact of the primary residential use alone.

139 ~~[(7)]~~ (8) The municipality shall transmit the information from each approved business
 140 license application to the county assessor within 60 days following the approval of the
 141 application.

142 ~~[(8)]~~ (9) If challenged in court, an ordinance enacted by a municipality before January
 143 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld
 144 unless the business license fee is found to impose an unreasonable burden on the fee payer.

145 Section 2. Section **17-53-216** is amended to read:

146 **17-53-216. Business license fees and taxes -- Application information to be**
 147 **transmitted to the county assessor.**

148 (1) ~~[For the purpose of this section, "business"]~~ As used in this section, "business"
 149 means any enterprise carried on for the purpose of gain or economic profit, except that the acts
 150 of employees rendering services to employers are not included in this definition.

151 (2) ~~[The]~~ Except as provided in Subsection (4)(a), and subject to Subsection (4)(b), the
 152 legislative body of a county may by ordinance provide for the licensing of businesses within
 153 the unincorporated areas of the county for the purpose of regulation [and revenue], and may
 154 impose fees on businesses to recover the county's costs of regulation.

155 (3) All license fees and taxes shall be uniform in respect to the class upon which they
 156 are imposed.

157 (4) A county may not:

158 (a) require a license or permit for a business that is operated:

159 (i) only occasionally; and

160 (ii) by an individual who is under 18 years of age; or

161 (b) charge a license fee for a home based business unless the combined offsite impact
 162 of the home based business and the primary residential use materially exceeds the offsite
 163 impact of the primary residential use alone.

164 ~~[(4)]~~ (5) The county business licensing agency shall transmit the information from each
 165 approved business license application to the county assessor within 60 days following the
 166 approval of the application.

167 ~~[(5)]~~ (6) This section may not be construed to enhance, diminish, or otherwise alter the
 168 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
 169 144.

170

3-1-2: PURPOSE:

- A. The purpose of this chapter is to provide for the regulation of all business activities within the city where authorized by statute.
- B. Residents of the city have an inalienable interest in their personal safety, well-being, and privacy in their residences and throughout the community. Residents also have an inalienable interest in their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce.
- C. The city has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property, **public health, safety, and welfare**. The city also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.
- D. The city finds that the procedures, rules and regulations set forth in this chapter are narrowly tailored to preserve and protect the city interests referred to herein while at the same time balancing the rights of those regulated. (Ord. 11-21-2006A, 11-21-2006)
- E. **The city has a substantial interest in creating a set of standards that allows for business activities to be conducted in both commercial zones as well as in home based businesses. The provision of this code establishes the minimum standards for review and approval of business licenses as well as establishes the basic standards for regulation.**

3-1-3: DEFINITIONS:

For the purposes of this chapter, the following definitions shall apply:

ADVOCATING: Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

APPEALS BOARD: The city council of the city.

APPELLANT: The person or entity appealing the denial or suspension of a license, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

APPLICANT: A person who is at least ~~sixteen (16)~~ **eighteen (18)** years of age who applies for a license.

APPLICATION: A standardized form provided by the city to an applicant to be completed and submitted as part of registration.

BUREAU OF CRIMINAL INVESTIGATION (BCI) BACKGROUND CHECK: An original dated no older than one hundred eighty (180) days prior to the date of the application of a Utah department of public safety bureau of criminal identification verified criminal history report personal to the applicant or equivalent report prepared by the corresponding public safety agency of the applicant's home state if the applicant is not a Utah resident.

BUSINESS: All activities engaged within the incorporated limits of the city, carried on for the purpose

of gain or economic profit including nonprofit entities. Business includes, but is not limited to, the sale of intellectual or tangible personal property at retail or wholesale, the manufacturing of goods or property, and the rendering of personal services for others for consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling. Business includes those registered with the state and/or those with a sales tax number. Business shall not mean the rendering of personal services by an employee to his or her employer under any contract of personal service.

CHARITABLE ACTIVITIES: Advocating by persons or entities that either are, or support, a charitable organization.

CHARITABLE ORGANIZATION: Any person that is:

- A. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;
- B. For the benefit of a public safety, law enforcement, or firefighter fraternal association;
- C. Tax exempt under applicable provisions of the internal revenue code of 1986, as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes;
- D. A chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the city or state of Utah¹;
- E. A student soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

CHECK CASHING: An organization involved in the providing of loans or consideration to customers in exchange for personal property, such as property titles or personal checks. Such services shall include check cashing businesses licensed and/or defined by the state pursuant to the check cashing registration act, car title loan businesses, deferred deposit loan businesses, and businesses of a similar nature offering such services as a primary function. The term financial service shall not include fully automated stand alone services, such as automated teller machines, or those used defined as bank or financial institution.

CITY: The City of Cedar Hills, Utah.

COMMERCIAL BUSINESS: A business conducted in the SC-1 commercial zone or a residential zone allowing a commercial use as outlined and defined in this chapter.

COMMERCIAL VEHICLE: Any vehicle, trailer or construction equipment that is primarily used in a trade or business that bears any logo or other advertisement of a trade or business, or that is actually being used in a trade or business.

COMPETENT INDIVIDUAL: A person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

COMPLETED APPLICATION: A fully completed application, a BCI background check, a copy of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.

CRIMINALLY CONVICTED: The final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

DISQUALIFYING STATUS: Anything specifically defined in this chapter as requiring the denial, suspension, or revocation of a license, and any of the following:

- A. The applicant has been criminally convicted of: 1) felony homicide, 2) physically abusing, sexually abusing, or exploiting a minor, 3) the sale or distribution of controlled substances, or 4) sexual assault of any kind;
- B. Criminal charges currently pending against the applicant for: 1) felony homicide, 2) physically abusing, sexually abusing, or exploiting a minor, 3) the sale or distribution of controlled substances, or 4) sexual assault of any kind;
- C. The applicant has been criminally convicted of a felony within the last ten (10) years;
- D. The applicant has been incarcerated in a federal or state prison within the past five (5) years;
- E. The applicant has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: 1) moral turpitude, or 2) violent or aggravated conduct involving persons or property;

F. A final civil judgment has been entered against the applicant within the last five (5) years indicating that: 1) the applicant had either engaged in fraud, or intentional misrepresentation, or 2) that a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19);

G. The applicant is currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

H. The applicant has an outstanding arrest warrant from any jurisdiction; or

I. The applicant is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

EMPLOYEE: The operator, owner, or manager of a place of business and any persons employed by such person in the operation of that place of business, in any capacity, and also any salesman, agent, or independent contractor engaged in the operation of that place of business, in any capacity.

ENTITY: A corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

FEES: The cost charged to the applicant for the issuance of a license and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the license and/or identification badge.

FINAL CIVIL JUDGMENT: A civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

GOODS: One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

HOME BASED OFFICE: A business conducted entirely out of the home, where the public and/or employees do not enter the home, where there is nothing produced, and where there is not a material impact.

HOME BASED BUSINESS: A business conducted entirely out of the home, the public and/or employees may enter the home, goods may be produced, and there may be a material impact.

HOME OCCUPATION: A business conducted out of a residential dwelling as outlined and defined in this chapter.

LICENSE: A document issued by the city evidencing permission of its named holder to carry on a particular business pursuant to the terms of this chapter.

LICENSEE: The person to whom a license has been issued pursuant to the provisions of this chapter.

LICENSING OFFICIAL: The city manager or designee responsible for receiving the completed application for registration.

MATERIAL OFFSITE IMPACT: An impact that a residential home based business has that exceeds the impact of a residential home alone. The impact may be based on traffic, noise, lighting, odor, or utility services.

MORAL TURPITUDE: Of or relating to moral action and conduct; professionally right; conforming to professional standards.

NO SOLICITATION SIGN: A reasonably visible and legible sign that states "No Soliciting", "No Solicitors", "No Salespersons", "No Trespassing", or words of similar import.

OCCASIONALLY: A business is operated occasionally when the operation of the business occur less than four times per year or on a seasonal basis and by an individual who is under the age of eighteen (18).

PEDDLERS: Any person who conducts the business of selling products from a moving vehicle or from a vehicle that continuously moves from one location to another.

PERSON: Any individual, firm, corporation, company, general or limited partnership, joint venture, business trust, receiver, club, assignee for the benefit of creditors, trustee in bankruptcy, trust, estate, foundation, association, or any other form of organization, society, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

POLITICAL POSITION: Any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

PREMISES OCCUPATION: A business conducted out of a customary residential accessory structure.

REGISTERED PERSON: Any person whose application has been approved by the city.

REGISTRATION: The process used by the licensing official to accept a completed application and determine whether or not a license will be issued, denied, suspended, or revoked.

RELIGIOUS BELIEF: Any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

RESIDENCE: Any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning regulations of the city, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.

RESPONSIBLE PERSON/ENTITY: That person or entity responsible to provide the following to an applicant and the competent individual to whom a sale of goods or services is made or attempted to be made:

- A. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;
- B. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and
- C. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

SALE OF GOODS OR SERVICES: The conduct and agreement of a business and the competent individual regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three (3) days under any applicable federal, state, or local law.

SERVICES: Those intangible goods or personal benefits offered, provided, or sold.

SOLICITING OR SOLICIT OR SOLICITATION OR DOOR TO DOOR SOLICITATION: The practice of going upon the premises of any residence or commercial property in the city, not having been invited by the occupant thereof, for the purpose of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make any of the following activities:

- A. Obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- B. Obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- C. Obtain contributions of money or any other thing of value for the benefit of any person or entity;
- D. Obtain orders or prospective customers for goods or services;
- E. Engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale.

SOLICITOR(S): A person engaged in solicitation.

SUBMITTED IN WRITING: The information for an appeal of a denial, suspension, or revocation of a license, submitted in any type of written statement to the city offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

SUBSTANTIATED REPORT: A written or electronic report:

A. That is submitted to and documented by the city;

B. By any of the following:

1. A competent individual who is willing to provide law enforcement or other city employees with publicly available identification of their name, address, and any other reliable means of contact;
2. City law enforcement or licensing official; or
3. Any other regularly established law enforcement agency at any level of government;

C. That provides any of the following information regarding a business:

1. Documented verification of a previously undisclosed disqualifying status of a business;
2. Probable cause that the business has committed a disqualifying status that has not yet been determined to be a disqualifying status;
3. Documented, eyewitness accounts that the business has engaged in repeated patterns of behavior that demonstrates failure by the business to adhere to the requirements of this chapter; or
4. Probable cause that the business creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the city.

TEMPORARY BUSINESS: A licensed vendor under this chapter.

TEMPORARY USE BUSINESS: A business defined as a commercial business conducted as outlined and defined in this chapter.

VENDOR: A business that is temporarily located on a site that has been approved by the city for a specific period of time.

WAIVER: The written form provided to the applicant by the city wherein the applicant agrees that the city may obtain a name/date of birth BCI background check on the applicant for registration under this chapter. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 7-8-2008B, 7-8-2008; Ord. 2-17-2009A, 2-17-2009; Ord. 3-20-2012A, 3-20-2012)

3-1-4: LICENSE REQUIRED:

A. Applicability: It shall be unlawful for any person to maintain, carry on, operate, or engage in any business; or to hold itself out to the public for such purpose without first procuring a license to do so from the city. This chapter shall apply to all persons who conduct a business operation: 1) from a structure or location within the city; 2) from a residence subject to prior approval as a home occupation; 3) from an automobile or other type of mobile unit subject to prior approval as a peddler or vendor; or 4) on foot subject to prior approval as a solicitor; provided, that the city may waive the license requirement where in the opinion of the licensing official the business activity qualifies as an exception, in accordance with the provision of subsection D of this section.

B. Separate Licenses Required For Each Business: A separate license shall be required for each business. A business desiring to facilitate or attempt to facilitate sales with different: 1) goods or services; or 2) responsible person or entity, from those designated in the originally submitted completed application, shall submit a new completed application for processing.

C. Nontransferability Of License(s): Any license issued under the provisions of this chapter is nontransferable. The license does not authorize any person or entity other than those identified in the application to do business in the city, nor does it authorize any other business than the business named in the license to do business.

D. Exceptions: This chapter shall not apply to: (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

1. Activities that are of an infrequent nature and carried on at such an incidental level as to not require regulation by the city as determined by the licensing official. (Ord. 3-20-2012A, 3-20-2012)
2. Firms providing incidental delivery of goods purchased by residents from locations outside of the city. Also, wholesale firms delivering supplies and materials to established businesses within the city.
3. Agricultural enterprises producing commodities for sale on the premises. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)
4. Legally registered charitable and non-profit organizations or 501(C)(3) and legally registered 501(c)(4) organizations and recognized as such by the Internal Revenue Service.
5. A home based business that is operated only occasionally and by an individual who is under 18 years of age.
6. A home based offices.

3-1-5: FEES:

The city may assess fees for the reasonable cost of processing the application and issuing the license and/or identification badge(s). Fees may also be assessed for the purpose of defraying costs related to regulatory costs, disproportionate costs for services and enhanced service costs. The amount of fees charged shall be set forth by resolution of the city council. All fees shall be paid in advance at the time application is made to the licensing official. No fee, or any part of it, shall be refunded for any reason once registration has commenced. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-6: PROCEDURE FOR APPLICATION, REGISTRATION AND LICENSING:

A. Application For License: The licensing official shall consider all applications for a license, which shall be made in writing. The city shall provide a standard application for the registration of businesses. Each application must be signed, filled out completely and accompanied by the appropriate fee. Each application shall require disclosure and reporting by the applicant of the following information and documentation: (Ord. 3-20-2012A, 3-20-2012)

1. Name: The name of the business.
2. Function: Function of the business.
3. Review Of Written Disclosures: An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.
4. Contact Information:
 - a. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;
 - b. Applicant's telephone number, home address and mailing address, if different;
 - c. If different from the applicant, the name, address, and telephone number of the responsible person or entity; and
 - d. The address by which all notices to the applicant required under this chapter are to be sent.
5. Proof Of Identity: The applicant shall provide an identification photograph of himself or herself and appear before the licensing official for an in person verification of identity. Any of the following proof of identity may be used:
 - a. A valid driver's license issued by any state;
 - b. A valid passport issued by the United States;
 - c. A valid identification card issued by any state;
 - d. A valid identification issued by a branch of the United States military;

e. A valid passport issued outside the United States.

Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

6. Proof Of Registration With Department Of Commerce: The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah state department of commerce.

7. State Licensing: Proof of appropriate state licensing if required by the state.

8. Type: The type of license desired.

9. Fee: Fee to be paid. **If it is determined that the impact of a home based business materially exceeds a standard residential dwelling, the owner of the business shall be required to pay for a business license; such a determination shall be made by the City Business License Official.**

10. Execution Of Application: The applicant shall execute the application, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate.

11. Additional Information: Such additional information as the city deems necessary for the guidance of the city in considering the application and registration of the business. Such additional information may include information regarding an applicant's criminal history as further outlined in the definition of "disqualifying status". (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

B. Registration And Licensing: The registration process shall not begin unless the applicant has submitted a completed application. Within ten (10) business days, the licensing official shall: (Ord. 3-20-2012A, 3-20-2012)

1. Registration:

a. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted and disclosed by the applicant.

b. Obtain a recommendation from the chief building official, zoning administrator and/or fire chief after the appropriate inspection, when applicable.

c. Accept the application or deny the application.

2. Licensing: Upon completion of registration, the licensing official shall issue a license. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-7: REQUIREMENTS:

A. Compliance: Each place of business may be inspected by the city for compliance with building, fire, land use, and health codes prior to opening for business. No business shall be registered if

the premises and/or building to be used are not in compliance with the building, fire, land use and health codes. An inspection shall **may** be required when the general public or a nonresident employee will be entering the business, a ~~product is produced~~, and/or when **hazardous chemicals and/or materials** are located at the business, ? (Ord. 3-20-2012A, 3-20-2012)

B. Inspections:

1. Whenever inspections are required or are considered reasonably necessary to secure compliance with any provision of this chapter or state statute or regulation, or to detect violations thereof; it shall be the duty of the licensee or the person in charge of the premises to be inspected to admit thereto, for the purpose of making the inspection, any official, officer or employee of the city, county or state who is authorized or directed to make such inspection at any reasonable time that admission is requested.
2. In addition to any other penalty that may be provided, the licensing official may revoke the license of any business in the city that refuses to permit any such authorized official, officer or employee to make the inspection, or interferes with such official, officer or employee while in the performance of his duty in making such inspection; provided, that no license shall be revoked under this provision unless written demand is made upon the licensee and/or person in charge of the premises, in the name of the city or the state, stating that such inspection is desired at the time it is sought to make the inspection. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

C. BCI Background Check: An original BCI background check for the applicant and for all employees of the applicant conducting "business" within the city as defined in section [3-1-3](#) of this chapter is required for the following businesses. The licensing official shall make a copy and return the original to the applicant.

1. Businesses whose primary purpose is providing services to minors.
2. Businesses providing services to the elderly.
3. Peddlers and vendors.
4. Solicitors.

D. Sales Tax Number: All businesses that offer the sale of goods or services shall have a permanent or temporary sales tax number. (Ord. 3-20-2012A, 3-20-2012)

3-1-8: TSSD APPLICABILITY:  

Provisions of the Timpanogos special service district (TSSD) shall be adhered to by any person requesting a business license. Copies of the TSSD contract and resolution are available upon request. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-9: FORM OF LICENSE:

The city shall provide a standard license for businesses. The license shall bear the name of the city and shall be dated and signed by the license official. The license shall contain: a) the name of the registered applicant and/or the responsible person or entity, if any; b) address of the registered applicant and/or the responsible person or entity, if any; and c) the date on which the license expires. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-10: ACCEPTANCE OF APPLICATION:

In the event the license official registers an application for a license, the application shall be endorsed and a license shall be issued. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-11: DENIAL, SUSPENSION OR REVOCATION OF A LICENSE OR REGISTRATION:

A. Denial: Upon review, the licensing official shall refuse to issue a license to an applicant for any of the following reasons:

1. The information submitted by the applicant is found to be incomplete or incorrect;
2. Since the submission of the completed application or renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
3. Failure to complete payment of the fees;
4. Since the submission of the application or granting of a license, the city has received a substantiated report regarding the past or present conduct of the applicant;
5. Since the submission of the application, the city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status;
6. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that: a) the applicant had either engaged in fraud, or intentional misrepresentation, or b) a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19);
7. Failure to allow the required inspection; or
8. The applicant is determined to have a "disqualifying status" as defined herein.

B. Suspension Or Revocation: The city shall either suspend or revoke a license when any of the reasons warranting the denial of a license occurs.

C. Notice Of Denial, Suspension Or Revocation: Upon determination of the licensing official to deny an applicant's completed application or to suspend or revoke a license, the city shall cause written notice to be sent to the applicant. The notice shall specify the grounds for the denial, suspension, or revocation; the documentation or information the city relied on to make the decision; the availability of the documentation for review by applicant upon notice to the city; and the date upon which the denial, suspension, or revocation of the license shall take effect. It shall further state that the applicant shall have ten (10) business days from the receipt of the notice of denial, suspension, or revocation to appeal the same. The denial, suspension, or revocation of the license shall be effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a license automatically results in its revocation. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-12: APPEAL:

An applicant whose license has been denied, suspended, or revoked shall have the right to appeal to the appeals board. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: a) documents the relationship with the applicant or responsible person or entity; or b) is licensed or authorized by the state of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

- A. Any appeal must be submitted in writing to the city recorder within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
 - B. Upon request of the applicant, the city will make available any information upon which it relied in making the determination to either deny or suspend the license.
 - C. The appeals board shall review, de novo, all written information submitted by the applicant to the licensing official, any additional information relied upon by the licensing official as the basis for denial, suspension or revocation, and any additional information supplied by the city or applicant. Any additional information submitted by any party to the appeal to the appeals board shall be simultaneously submitted to the opposing party.
 - D. The appeals board will render a decision no later than fifteen (15) calendar days or the next available city council meeting from the date the appeal was taken, unless an extension of time is agreed upon by the parties.
1. The denial, suspension, or revocation of the license shall be reversed by the appeals board if upon review of the written appeal and information submitted, the appeals board finds that the licensing official made a material mistake of law or fact in denying, suspending, or revoking the applicant's license.

2. If the written appeal and information submitted indicates that the licensing official properly denied, suspended, or revoked the license of the applicant, the denial or suspension of the license shall be affirmed and constitute a determination that the suspended license is revoked.

3. A written decision of the appeals board shall be delivered to the applicant.

E. After the ruling of the appeals board, the applicant is deemed to have exhausted all administrative remedies with the city.

F. Nothing herein shall impede or interfere with the applicant's or city's right to seek relief in a court of competent jurisdiction. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-13: DISPLAY OF LICENSE:

Every license issued under this chapter shall be posted by the licensee in a conspicuous place, preferably upon an interior wall at the place of business, so that the same may be easily seen. Those businesses that do not maintain a permanent location or building in the city shall carry the license at all times when conducting business in the city. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-14: ADMINISTRATION AND ENFORCEMENT:

A. Administration: The license official shall be responsible for the enforcement of this chapter. The license official may, on his or her own initiative, or in response to complaints referred from the general public or a city department, investigate and gather evidence of violations of the licensing provisions of this chapter or any other city ordinances.

B. Nuisances: No business, whether licensed or not, shall be conducted or operated so as to amount to a nuisance. Substantiated complaints may contribute to consideration of a nuisance.

C. Business To Comply With Other Ordinances: No license shall be issued for the conduct of any business, and no license shall be issued for any thing or act, if the premises and building to be used for the purpose does not fully comply with the requirements of this code. No such license shall be issued for the conduct of any business or performance of any act that would involve a violation of the zoning regulations of the city. Any license so issued shall be null and void. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-15: CLASSIFICATION OF RECORDS:

Business and license records shall be public records and information contained in them shall be public except for specific items of data that the city recorder classifies as private, controlled, or

protected consistent with the provisions of Utah Code Annotated 63G et seq., government records access and management act. To the extent permitted by state and/or federal law, a BCI background check shall remain a private record not available for public inspection. (Ord. 3-20-2012A, 3-20-2012)

3-1-16: MAINTENANCE OF REGISTRY:

The license official shall keep and maintain a registry containing the names of all licensees. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-17: CITATIONS FOR VIOLATIONS:

The license official shall, in the discharge and performance of his or her official duties, have and exercise the power to issue citations for the violation of any of the provisions of this chapter. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-18: PENALTY:

Any person, firm or corporation who operates or conducts a business within the city without having a current and valid business license, or who violates any of the provisions of this chapter, shall be guilty of a class B misdemeanor and, upon conviction, subject to penalty as provided in section [1-4-1](#) of this code. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

3-1-19: EXPIRATION OF LICENSE; CONTINUING OBLIGATION; RENEWAL:

A license shall be valid for one year and shall expire at twelve o'clock (12:00) midnight one year from the date issued. Renewals received after the expiration date will be subject to late fees. Any license that is not suspended, revoked, or expired may be renewed upon receipt of a completed renewal application, provided, that the conditions below are met:

- A. The operation of the business remains substantially the same as initially approved; and
- B. The business has remained in active operation as evidenced by the acquisition of a valid business license for the previous year; and
- C. There are no unresolved violations of this code or continued, substantiated complaints; and
- D. No conditions for the denial, suspension or revocation of a license are present as set forth in section [3-1-11](#) of this chapter, or a disqualifying status is present. (Ord. 11-21-2006A, 11-21-2006; amd. Ord. 3-20-2012A, 3-20-2012)

Footnotes - Click any footnote link to go back to its reference.

[Footnote 1](#): UCA § 13-22-2(1)(a), (b).