
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: January 5, 2007

SUBJECT: **Ordinance amending Chapter 5.64, pertaining to Solicitation, Peddling, and Sales Promotion Activities**

AFFECTED COUNCIL DISTRICTS: Citywide

STAFF REPORT BY: Gary Mumford

ADMINISTRATIVE DEPT. AND CONTACT PERSON: Community Development
Edna Drake & Orion Goff

A 2005 Federal court decision struck down the fingerprint and bond requirements contained in Pleasant Grove City's peddling ordinance. Various other Utah municipalities have been sued over similar or related issues. Salt Lake City's ordinance for house to house sells, temporary merchants, and mobile ice cream vending currently contains a fingerprint requirement. The City's ordinance relating to temporary merchants also requires a \$2,000 surety bond. In order to avoid a potential lawsuit, the Building Services & Licensing Division is recommending that the Council amend the current ordinance to eliminate finger printing and the bonding. The City's current ordinance did not provide specific criteria for denial of a permit. The proposed ordinance includes criteria for denial of a permit.

MATTERS AT ISSUE

A City permit is required to sell from house to house or from place to place within the City. A person registering with the City will be issued an identification card showing the persons name, home address, and the name and home address of the person, firm or corporation which the person represents. The identification card, which is the permit, is to be displayed in a conspicuous location on the solicitor's outer clothing, above the waist, during solicitation activity. The requirements of the ordinance do not apply to persons or organizations conducting religious solicitations or charitable solicitations which are registered with the Utah Division of Consumer Protection as required by the Utah Charitable Solicitation Act.

The City's current ordinance defines the police chief as the person responsible for administration of this licensing process. The proposed amendment changes the responsibility for administration of the process from the Police Chief to the Business License Administrator. The Business Licensing Office has obtained the equipment for taking photographs of applicants and generating the identification cards.

In lieu of fingerprinting and bonding, the plaintiffs in the above referenced litigation suggested in a model ordinance that the applicant provide proof of identity and a background check. This model ordinance was helpful to the Administration in identifying some specific language that is included in the proposed ordinance amendment.

Proof of identity – At the time of registering, the applicant is to show a picture ID (i.e. valid drivers license issued by any state, valid passport issued by the United States, valid identification card issued by any state, valid identification card issued by a branch of the United States military).

Grounds for denial – The model ordinance and the proposed ordinance amendment provides that the following will constitute denial of a permit:

- a. Conviction of or criminally charged with (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind.
- b. Conviction of a felony within the last 10 years.
- c. Incarceration in a federal or state prison in the past 5 years.
- d. Conviction of a misdemeanor within the past 5 years involving moral turpitude, or violent or aggravated conduct involving persons or property.
- e. Judgment entered against the applicant within the last 5 years for fraud, intentional misrepresentation, or non-discharge of a debt in a bankruptcy proceeding.
- f. The applicant is currently on parole or probation or under house arrest or subject to a tracking device order.
- g. The applicant has outstanding warrants from any jurisdiction.
- h. The applicant is subject to a protective order issued based on physical or sexual abuse.

Criminal check – At the time of registering, the applicant is to provide a verified criminal history report from the Utah Department of Public Safety Bureau of Criminal Identification or a verification that no criminal history exists. The criminal history or verification of no criminal history is to be presented in a sealed envelope from the Utah Bureau of Criminal Identification. The Business Licensing Office plans to scan the criminal history or verification of no criminal history and send it electronically to the Police Department to check for pending convictions and determine whether the history meets any of the criteria for denial. The Business License Administrator estimates that this process will usually take only one or two days. *The Council may wish to ask how much value is added by including the police in the process.* According to the Business Services & Licensing Director, it would be very cumbersome for the licensing staff to assimilate all of the criminal code necessary to reasonably make the judgment on the proper charges to be considered as related per the ordinance. Ultimately, the Business License Administrator will make the decision to revoke, deny or suspend based on a recommendation from the Police Department. *The Council may wish to ask whether the process can be streamlined by training the business licensing staff in examining the criminal history and making a determination on the spot.* This would eliminate the delay and allow the permit to be issued in one step.

Elimination of surety bond for temporary merchant – The current ordinance requires an applicant for a temporary merchant permit is to provide a \$2,000 surety bond to secure the payment of a business license fee in the event the applicant becomes a permanent merchant. In practice the Business Licensing Office hasn't insisted on a surety bond for temporary events such as neighborhood fairs.

OPTIONS:

The Administration is suggesting a public hearing. However, a public hearing may not be necessary since fees are not increasing. *The Council may wish to clarify whether a public hearing is advisable.* The Council may wish to consider the following options:

1. Set the date for a public hearing.
2. Forward to a future Council meeting for consideration without a public hearing.
3. Request additional information or clarification.

A. LOUIS ZUNGUZE
DIRECTOR

BRENT B. WILDE
DEPUTY DIRECTOR

SALT LAKE CITY CORPORATION
DEPT. OF COMMUNITY DEVELOPMENT
OFFICE OF THE DIRECTOR

ROSS C. "ROCKY" ANDERSON
MAYOR

CITY COUNCIL TRANSMITTAL

TO: Rocky Fluhart, Chief Administrative Officer *Steve L. Danieletti* **DATE:** December 20, 2006
FROM: Louis Zunguze, Community Development Director *LB*
RE: An ordinance amending Chapter 5.64, pertaining to solicitation, peddling, and sales promotion activities

STAFF CONTACTS: Edna Drake, Business License Administrator, at 535-6473 or edna.drake@slcgov.com
Orion Goff, Building Services & Licensing Director, 535-6681 or orion.goff@slcgov.com

RECOMMENDATION: That the City Council hold a briefing and schedule a Public Hearing

DOCUMENT TYPE: Ordinance

BUDGET IMPACT: None

DISCUSSION:

Issue Origin: The City Attorney's Office informed the Business License Office that there are legal concerns related to the current City ordinance that addresses the licensing of solicitors and peddlers stemming from litigation filed by individuals and entities engaged in Kirby vacuum cleaner sales who have challenged solicitor and peddler ordinances in several Utah municipalities. Of particular importance is a 2005 Federal court decision in which the court struck down the fingerprint and bond requirements contained in Pleasant Grove City's peddling ordinance.¹ Various other Utah municipalities have also been sued over similar and/or related issues.

The City's ordinance currently contains both a fingerprint and a bond requirement (see Sections 5.64.140 and 5.64.370). In order to avoid a potential lawsuit, the City Attorney's Office has recommended to the Business Licensing Office that it either (1) amend its current ordinance to eliminate fingerprint and bond requirements, or (2) adopt the model ordinance that was drafted by the plaintiffs in conjunction with the litigation referred to above. The Business Licensing Office, after reviewing the model ordinance (see Attachment A) and conferring with Counsel, determined to amend the current ordinance (see Attachment B).

¹ See Pacific Frontier, Inc. v. Pleasant Grove City, 414 F.3d 1221 (10th Cir. 2005).

After the 2005 Federal court ruling, the plaintiffs in the aforementioned litigation agreed to stay any further litigation to allow municipalities an opportunity to adopt the model ordinance they proposed. The stay will expire on January 6, 2007.

Analysis: Solicitors and Peddlers: After evaluating Chapter 5.64 of the Salt Lake City Code against the model ordinance, Staff recommends eliminating the following as a requirement for a solicitor's license:

- Finger printing and
- Bonding.

The proposed change will necessitate amending the license application. Salt Lake City's current ordinance Chapter 5.64 does not specifically identify the requirements for applicant information required on the license application. After reviewing the model ordinance, Staff recommends that the City adopt the model ordinance's requirements regarding the application form and the requirement for each applicant to provide a background check by the Utah Department of Public Safety, Bureau of Criminal Identification (BCI). This change will be represented in Sections 5.64.150: "Registration Information – Criminal Background Check" and 5.64.160: "License – Application – Disclosures Required".

The model ordinance also includes useful language that Staff recommends adopting in relationship to:

- "Denial of Certificate"
- "Denial of Certificate Renewal"
- "Suspension or Revocation"

These changes are represented in the amended ordinance Section 5.64.170: "Grounds for Denial, Revocation or Suspension".

In the process of evaluating the current City Ordinance there were several areas that required a general text cleanup. These recommended text changes have no salient effect on the intent of the ordinance. Included in the amended ordinance, Council will also find a change of responsibility for administration of the process from the Police Chief to the Business License Administrator, which aligns to current practice.

PUBLIC PROCESS:

The City Council is required to hold a Public Hearing prior to adopting any ordinance change.

RELEVANT ORDINANCES:

Salt Lake City Code Chapter 5.64: "Solicitation, Peddling and Sales Promotion Activities"

Attachment A:
Model Ordinance

DRAFT ORDINANCE FOR DISCUSSION PURPOSES ONLY
SUBJECT TO FED. R. EVID. 408

CHAPTER ____
RESIDENTIAL SOLICITATION

000-001	Purpose
000-002	No Other City License or Approval Required
000-003	Definitions
000-004	Exemptions from Chapter
000-005	Solicitation Prohibited
000-006	Registration of Solicitors
000-007	Application Form
000-008	Written Disclosures
000-009	When Registration Begins
000-010	Issuance of Certificates
000-011	Form of Certificate and Identification Badge
000-012	Maintenance of Registry
000-013	Non-Transferability of Certificates
000-014	Denial, Suspension or Revocation of a Certificate of Registration
000-015	Appeal
000-016	Deceptive Soliciting Practices Prohibited
000-017	ΔNo Soliciting@ Notice
000-018	Duties of Solicitors
000-019	Time of Day Restrictions
000-020	Buyer=s Right to Cancel
000-021	Penalties

000-001 Purpose.

Residents of the City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. 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. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding Door-to-Door Solicitation, the experience of its law enforcement officers and those affected by Door-to-Door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded

constitutional protections afforded and denied persons seeking to engage in Door-to-Door Solicitation, the City adopts this Chapter to promote the City=s substantial interests in:

- (1) respecting citizen=s decisions regarding privacy in their residences;
- (2) protecting persons from criminal conduct;
- (3) providing equal opportunity to Advocate for and against Religious Belief, Political Position, or Charitable Activities; and
- (4) permitting truthful and non-misleading Door-to-Door Solicitation regarding lawful Goods or Services in intrastate or interstate commerce.

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.

000-002 No Other City License or Approval Required.

(1) Registered Solicitors and persons exempt from Registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in Door-to-Door Solicitation.

(2) Any Business licensed by the City under another City Ordinance that uses employees, independent contractors, or agents for Door-to-Door Solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such Solicitors obtain a Certificate, unless otherwise exempt from Registration.

(3) Those Responsible Persons or Entities associated with Registered Solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.

(4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a Registered Solicitor is otherwise required to have or maintain.

000-003 Definitions. For the purposes of this Chapter, the following definitions shall apply:

(1) **Advocating@** means speech or conduct intended to inform, promote, or support Religious Belief, Political Position, or Charitable Activities.

(2) **Appeals Officer@** means the City Council or designee of the City

responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Chapter.

(3) **Appellant** means the person or entity appealing the denial or suspension of a Certificate, either personally as an Applicant or registered Solicitor, or on behalf of the Applicant or Registered Solicitor.

(4) **Applicant** means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a Certificate permitting Door-to-Door Solicitation.

(5) **Application Form** means a standardized form provided by the City to an Applicant to be completed and submitted as part of Registration.

(6) **B.C.I.** means an original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a Disqualifying Status exists for the Applicant.

(7) **Business** means a commercial enterprise licensed by the City as a person or Entity under this Title, having a fixed or temporary physical location within the City.

(8) **Certificate** means a temporary, annual, or renewal Certificate permitting Door-to-Door Solicitation in the City applied for or issued pursuant to the terms of this Chapter.

(9) **Charitable Activities** means Advocating by persons or Entities that either are, or support, a Charitable Organization.

(10) **Charitable Organization** includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other Entity:

A. that is:

- (i) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;
- (ii) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or
- (iii) established for any charitable purpose; and

- B. That is 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.
- C. Charitable Organization includes 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 Utah.¹

(11) **ACompetent Individual** means 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.

(12) **ACompleted Application** means a fully completed Application Form, a B.C.I, two copies of the original identification relied on by the Applicant to establish Proof of Identity, and the tendering of Fees.

(13) **ACriminally Convicted** means 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 or Registered Solicitor 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.

(14) **ADisqualifying Status** means anything specifically defined in this Chapter as requiring the denial or suspension of a Certificate, and any of the following:

- A. The Applicant or Registered Solicitor has been Criminally Convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- B. Criminal charges currently pending against the Applicant or Registered Solicitor for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- C. The Applicant or Registered Solicitor has been Criminally Convicted of a felony within the last ten (10) years;
- D. The Applicant or Registered Solicitor has been incarcerated in a

¹Charitable Solicitation Act UCA ' 13-22-2(1)(a) & (b).

federal or state prison within the past five (5) years;

- E. The Applicant or Registered Solicitor has been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of: (I) moral turpitude, or (ii) violent or aggravated conduct involving persons or property.
- F. A Final Civil Judgment been entered against the Applicant or Registered Solicitor within the last five (5) years indicating that: (I) the Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. The Applicant or Registered Solicitor 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 or Registered Solicitor has an outstanding arrest warrant from any jurisdiction; or
- I. The Applicant or Registered Solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(15) **ADoor to Door Solicitation@** means the practice 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 or facilitate a Home Solicitation Sale, or attempting to further the sale of Goods and or Services.

(16) **AEntity@** includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

(17) **AFees@** means the cost charged to the Applicant or Registered Solicitor for the issuance of a Certificate and/or Identification Badge, which shall not exceed the reasonable costs of processing the application and issuing the Certificate and//or Identification Badge.

(18) **AFinal Civil Judgment@** means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

(19) **AGoods@** means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

(20) **AHome Solicitation Sale** means to make or attempt to make a Sale of Goods or Services by a Solicitor at a Residence by means of Door-to-Door Solicitation, regardless of

- A. the means of payment or consideration used for the purchase;
- B. the time of delivery of the Goods or Services; or
- C. the previous or present classification of the Solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

(21) **ALicensing Officer** means the City employee(s) or agent(s) responsible for receiving from an Applicant or Registered Solicitor the Completed Application and either granting, suspending, or denying the Applicant's Certificate.

(22) **ANo Solicitation Sign** means a reasonably visible and legible sign that states ANo Soliciting, ANo Solicitors, ANo Salespersons, ANo Trespassing, or words of similar import.

(23) **APolitical Position** means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

(24) **ARegistered Solicitor** means any person who has been issued a current Certificate by the City.

(25) **ARegistration** means the process used by the City Licensing Officer to accept a Completed Application and determine whether or not a Certificate will be denied, granted, or suspended.

(26) **AReligious Belief** means 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.

(27) **AResidence** means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws 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.

(28) **AResponsible Person or Entity** means that person or Entity responsible to provide the following to an Applicant, Registered Solicitor, and the Competent Individual in a Residence to whom a Sale of Goods or Services is made or attempted to be made by means of a Home Solicitation Sale:

- 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.

(29) **ASale of Goods or Services@** means the conduct and agreement of a Solicitor and the Competent Individual in a Residence regarding a particular Good(s) or Service(s) that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

(30) **AServices@** means those intangible goods or personal benefits offered, provided, or sold to a Competent Individual of a Residence.

(31) **ASoliciting@** or **ASolicit@** or **ASolicitation@** means any of the following activities:

- A. Seeking to 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. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;
- C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or Entity;
- D. Seeking to obtain orders or prospective customers for Goods or Services.
- E. Seeking to 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.
- F. Other activities falling within the commonly accepted definition of Soliciting, such as hawking or peddling.

(32) **ASolicitor@** or **ASolicitors@** means a person(s) engaged in Door-to-Door

Solicitation.

(33) **ASubmitted in Writing@** means the information for an appeal of a denial or suspension of a Certificate, submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(34) **ASubstantiated Report@** means an oral, 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 Officer; or
 - 3. Any other regularly established law enforcement agency at any level of government;
- C. That provides any of the following information regarding a Registered Solicitor:
 - 1. Documented verification of a previously undisclosed Disqualifying Status of a Registered Solicitor;
 - 2. Probable cause that the Registered Solicitor has committed a Disqualifying Status which has not yet been determined to be a Disqualifying Status;
 - 3. Documented, eye-witness accounts that the Registered Solicitor has engaged in repeated patterns of behavior that demonstrates failure by the Registered Solicitor to adhere to the requirements of this Chapter; or
 - 4. Probable cause that continued licensing of the Registered Solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

(35) **AWaiver@** means the written form provided to Applicant by the City wherein Applicant agrees that the City may obtain a name/date of birth BCI background check on

check on the Applicant for licensing purposes under this Chapter, and which contains Applicant=s notarized signature.

000-004 Exemptions From Chapter. The following are exempt from Registration under this Chapter:

- (1) Persons specifically invited to a Residence by a Competent Individual prior to the time of the person=s arrival at the Residence;
- (2) Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in Door to Door Solicitation to offer Goods or Services to an occupant of the Residence;
- (3) Persons delivering Goods to a Residence pursuant to a previously made order, or persons providing Services at a Residence pursuant to a previously made request by a Competent Individual;
- (4) Persons advocating or disseminating information for, against, or in conjunction with, any Religious Belief, or Political Position regardless of whether Goods, Services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and
- (5) Persons representing a Charitable Organization. The charitable exemption shall apply to students 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.

Those Persons exempt from Registration are not exempt from the duties and prohibitions outlined in Sections 000-017, 000-018 and 000-019 while Advocating or Soliciting.

000-005 Solicitation Prohibited. Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private Residence within the City by Solicitors, for the purpose of Home Solicitation Sales or to provide Goods or Services, is prohibited and is punishable as set forth in this Chapter.

000-006 Registration of Solicitors. Unless otherwise exempt under this Chapter, all persons desiring to engage in Door-to-Door Solicitation within the City, prior to doing so, shall submit a Completed Application to the Licensing Officer and obtain a Certificate.

000-007 Application Form. The Licensing Officer shall provide a standard

Application Form for use for the Registration of Solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or Entity may obtain in person, by mail, or facsimile, a copy of this Application Form. Each Application Form shall require disclosure and reporting by the Applicant of the following information, documentation, and fee:

(1) **Review of Written Disclosures.** An affirmation that the Applicant has received and reviewed the disclosure information required by this Chapter.

(2) **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.

(3) **Proof of Identity.** An in-person verification by the Licensing Officer of the Applicant=s true identity by use of any of the following which bear a photograph of said Applicant:

- A. A valid drivers 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.

Upon verification of identity, the original identification submitted to establish Proof of Identity shall be returned to the Applicant.

(4) **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;

(5) **Special Events Sales Tax Number.** The Applicant shall provide a special events sales tax number for either the Applicant, or for the Responsible Person or Entity

or Entity for which the Applicant will be soliciting;

(6) **Marketing Information.**

- A. The Goods or Services offered by the Applicant, including any commonly known, registered or trademarked names;
- B. Whether the Applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered Goods or Services.

(7) **BCI Background Check.** The Applicant shall provide:

- A. An original or a copy of a BCI background check as defined in 000-003; and
- B. A signed copy of a Waiver whereby Applicant agrees to allow the City to obtain a name/date of birth BCI background check on Applicant for purposes of enforcement of this Chapter. ²

(8) **Responses to Questions Regarding ADisqualifying Status.**^a The Applicant shall be required to affirm or deny each of the following statements on the Application Form:

- A. Has the Applicant been Criminally Convicted of: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- B. Are any criminal charges currently pending against the Applicant for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind.
- C. Has the Applicant been Criminally Convicted of a felony within the last ten (10) years;
- D. Has the Applicant been incarcerated in a federal or state prison within the past five (5) years;
- E. Has the Applicant been Criminally Convicted of a misdemeanor within

²See Utah Code Ann. ' 53-10-108(1)(b).

within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property.

- F. Has a Final Civil Judgment been entered against the Applicant within the last five (5) years indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);
- G. Is the Applicant 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. Does the Applicant have an outstanding arrest warrant from any jurisdiction; or
- I. Is the Applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

(9) **Fee.** The Applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the Certificate and/or Identification Badge.

(10) **Execution of Application.** The Applicant shall execute the Application Form, 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.

000-008 Written Disclosures. The Application Form shall be accompanied by written disclosures notifying the Applicant of the following:

(1) The Applicant=s submission of the Application authorizes the City to verify information submitted with the Completed Application including:

- A. the Applicant=s address;
- B. the Applicant=s and/or Responsible Person or Entity=s state tax identification and special use tax numbers, if any;
- C. the validity of the Applicant=s Proof of Identity;

(2) The City may consult any publically available sources for information on the

the Applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.

(3) Establishing Proof of Identity is required before Registration is allowed;
(4) Identification of the fee amount that must be submitted by Applicant with a Completed Application;

(5) The Applicant must submit a BCI background check with a Completed Application;

(6) To the extent permitted by State and/or federal law, the Applicant=s BCI background check shall remain a confidential, protected, private record not available for public inspection;

(7) The City will maintain copies of the Applicant=s Application Form, Proof of Identity, and Identification Badge. These copies will become public records available for inspection on demand at the City offices whether or not a Certificate is denied, granted, or renewed.

(8) The criteria for Disqualifying Status, denial, or suspension of a Certificate under the provisions of this Chapter.

(9) That a request for a temporary Certificate will be granted or denied the same business day that a Completed Application is submitted.

000-009 When Registration Begins. The Licensing Officer shall not begin the Registration process unless the Applicant has submitted a Completed Application. The original identification submitted to establish Proof of Identity shall be returned after the Licensing Officer verifies the Applicant=s identity. A copy of the identification may be retained by the Licensing Officer. If an original B.C.I. background check is submitted by the Applicant, the Licensing Officer shall make a copy of the B.C.I. and return the original to the Applicant.

000-010 Issuance of Certificates. The Licensing Officer shall review the Completed Application submitted by the Applicant and issue a Certificate in accordance with the following:

(1) **Temporary Certificate.**

A. A temporary Certificate shall issue allowing the Applicant to immediately begin Door-to-Door Solicitation upon the following conditions:

(I) Applicant=s submission of a Completed Application;

- (ii) Applicant=s submission of the required fee;
- (iii) Applicant establishes Proof of Identity;
- (iv) the Applicant=s representations on the Application Form do not affirmatively show a Disqualifying Status;
- (v) the B.C.I. does not affirmatively show a Disqualifying Status; and
- (vi) the Applicant has not previously been denied a Certificate by the City, or had a Certificate revoked for grounds that still constitute a Disqualifying Status under this Chapter.

B. A temporary Certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual Certificate, whichever period is shorter.

(2) **Annual Certificate.** Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:

- A. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the Applicant, including, but not limited to those disclosed with the Application Form.
- B. Issue written notice to the Applicant and the Responsible Person or Entity, if any, that the Applicant either:
 - (i) will be issued an annual Certificate, eligible for renewal one year from the date of issuance of the temporary Certificate; or
 - (ii) will not be issued an Annual Certificate for reasons cited in Section 000-014 of this Chapter.

(3) **Renewal Certificate.** An annual Certificate shall be valid for one year from the date of issuance of the temporary Certificate and shall expire at midnight on the anniversary date of issuance. Any annual Certificate that is not suspended, revoked, or expired may be renewed upon the request of the Registered Solicitor and the submission of a new Completed Application and payment of the Fee, unless any of the conditions for the denial, suspension or revocation of a Certificate are present as set forth in section 000-014, or a Disqualifying Status is present.

000-011 Form of Certificate and Identification Badge.

(1) **Certificate Form.** Should the Licensing Officer determine that the Applicant is entitled to a Certificate, the Licensing Officer shall issue a Certificate to the Applicant. The Certificate shall list the name of the Registered Solicitor and the Responsible Person or Entity, if any, and the date on which the Certificate expires. The Certificate shall be dated and signed by the License Officer. The Certificate shall be carried by the Registered Solicitor at all times while Soliciting in the City.

(2) **Identification Badge.** With both the temporary and annual Certificates, the City shall issue each Registered Solicitor an Identification Badge that shall be worn prominently on his or her person while Soliciting in the City. The Identification Badge shall bear the name of the City and shall contain: (a) the name of the Registered Solicitor; (b) address and phone number of the Registered Solicitor, or the name, address, and phone number of the Responsible Person or Entity is provided; 8 a recent photograph of the Registered Solicitor; and (d) the date on which the Certificate expires.

000-012 Maintenance of Registry. The Licensing Officer shall maintain and make available for public inspection a copy or record of every Completed Application received and the Certificate or written denial issued by the City. The Applicant=s BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City=s law enforcement agency a listing of all Applicants, those denied, and those issued a Certificate.

000-013 Non-Transferability of Certificates. Certificates shall be issued only in the name of the Applicant and shall list the Responsible Party or Entity, if any. The Certificate shall be non-transferable. A Registered Solicitor desiring to facilitate or attempt to facilitate Home Solicitation Sales with different: (a) Goods or Services; or (b) Responsible Person or Entity, from those designated in the originally submitted Completed Application, shall submit a written change request to the Licensing Officer. A new Certificate based on the amended information shall issue for the balance of time remaining on the Solicitor=s previous Certificate before the amendment was filed. Before the new Certificate is given to the Registered Solicitor, the Registered Solicitor shall obtain a revised Identification Badge from the City, after payment of the Fee for the Identification Badge.

000-014 Denial, Suspension or Revocation of a Certificate of Registration.

(1) **Denial.** Upon review, the Licensing Officer shall refuse to issue a Certificate to an Applicant for any of the following reasons:

A. Denial of Temporary Certificate.

- (i) the Application Form is not complete;
- (ii) the Applicant fails to (1) establish Proof of Identity, (2) provide a B.C.I. or (3) pay the Fees;
- (iii) the Completed Application or B.C.I. indicates that the Applicant has a Disqualifying Status; or
- (iv) The Applicant has previously been denied a Certificate by the City, or has had a Certificate revoked for grounds that still constitute a Disqualifying Status under this chapter.

B. Denial of Annual Certificate.

- (i) The information submitted by the Applicant at the time of the granting of the temporary Certificate is found to be incomplete or incorrect;
- (ii) Since the submission of the Completed Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
- (iii) Failure to complete payment of the Fees;
- (iv) Since the submission of the Application, the City has received a Substantiated Report regarding the past or present conduct of the Applicant;
- (v) 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; or
- (vi) Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).

C. Denial of Annual Certificate Renewal.

- (i) The information submitted by the Applicant when seeking renewal of a Certificate is found to be incomplete or incorrect;
- (ii) Since the submission of the renewal Application, the Applicant is subject to a previously undisclosed or unknown Disqualifying Status;
- (iii) Failure to complete payment of the Fees;

- (iv) Since the submission of the Application or granting of a Certificate, the City has received a Substantiated Report regarding the past or present conduct of the Solicitor;
- (v) 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; or
- (vi) Since the submission of the Application, a Final Civil Judgment has been entered against the Applicant indicating that: (i) the Applicant had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. ' 523(a)(2), (a)(4), (a)(6), or (a)(19).

(2) **Suspension or Revocation.** The City shall either suspend or revoke a Certificate when any of the reasons warranting the denial of a Certificate occurs.

(3) **Notice of Denial or Suspension.** Upon determination of the Licensing Officer to deny an Applicant=s Completed Application or to suspend a Registered Solicitor=s Certificate, the City shall cause written notice to be sent to the Applicant or Registered Solicitor by the method indicated in the Completed Application. The Notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by Applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the Certificate shall take effect. It shall further state that the Applicant or Registered Solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the Certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 000-003(34)(C)(4), in which case, the suspension is 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 Certificate automatically results in its revocation.

000-015 Appeal. An Applicant or Registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the City Council or its designee. 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:

(1) Any appeal must be Submitted in Writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is

appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

(2) Upon request of the Applicant or Registered Solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.

(3) The Appeals Officer shall review, de novo, all written information submitted by the Applicant or Registered Solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, Applicant or Registered Solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer regarding the additional information submitted by the opposing party.

(4) The Appeals Officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 000-015(3), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

- A. The denial or suspension of the Certificate shall be reversed by the Appeals Officer if upon review of the written appeal and information submitted, the Appeals Officer finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the Applicant or Registered Solicitor=s Certificate.
- B. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the Applicant or Registered Solicitor, the denial or suspension of the Certificate shall be affirmed and constitute a determination that the suspended Certificate is revoked.
- C. The decision of the Appeals Officer shall be delivered to the Applicant or Registered Solicitor by the means designated in the completed Application, or as otherwise agreed upon when the Appeal was filed.

(5) After the ruling of the Appeals Officer, the Applicant or Solicitor is deemed to have exhausted all administrative remedies with the City.

(6) Nothing herein shall impede or interfere with the Applicant=s, Solicitor=s, or City=s right to seek relief in a court of competent jurisdiction.

000-016 Deceptive Soliciting Practices Prohibited.

(1) No Solicitor shall intentionally make any materially false or fraudulent statement in the course of Soliciting.

(2) A Solicitor shall immediately disclose to the consumer during face-to-face Solicitation; (i) the name of the Solicitor; (ii) the name and address of the entity with whom the Solicitor is associated; and (iii) the purpose of the Solicitor's contact with the person and/or Competent Individual. This requirement may be satisfied through the use of the Badge and an informational flyer.

(3) No Solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

(4) No Solicitor shall represent directly or by implication that the granting of a Certificate of Registration implies any endorsement by the City of the Solicitor's Goods or Services or of the individual Solicitor.

000-017 "No Solicitation" Notice.

(1) Any occupant of a Residence may give notice of a desire to refuse Solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the Residence.

(2) The display of such sign or placard shall be deemed to constitute notice to any Solicitor that the inhabitant of the Residence does not desire to receive and/or does not invite Solicitors.

(3) It shall be the responsibility of the Solicitor to check each Residence for the presence of any such Notice.

(4) The provisions of this Section shall apply also to Solicitors who are exempt from Registration pursuant to the provisions of this Chapter.

000-018 Duties of Solicitors.

(1) Every person Soliciting or Advocating shall check each Residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such Solicitor shall desist from any efforts to solicit at the Residence or dwelling and shall immediately depart from such property. Possession of a Certificate of Registration does not in any way relieve any solicitor of this duty.

(2) It is a violation of this Chapter for any person Soliciting or Advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a Residence that bears a ANo Solicitation@ sign or similar sign or placard for the purpose of engaging in or attempting to engage in Advocating, a Home Solicitation Sale, Door-to-Door Soliciting, or Soliciting.

(3) It is a violation of this Chapter for any Solicitor through ruse, deception, or fraudulent concealment of a purpose to Solicit, to take action calculated to secure an audience with an occupant at a Residence.

(4) Any Solicitor who is at any time asked by an occupant of a Residence or dwelling to leave shall immediately and peacefully depart.

(5) The Solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person=s consent;

(6) The Solicitor shall not follow a person into a Residence without their explicit consent;

(7) The Solicitor shall not continue repeated Soliciting after a person and/or Competent Individual has communicated clearly and unequivocally their lack of interest in the subject, Goods or Services of the Solicitor;

(8) The Solicitor shall not use obscene language or gestures.

000-019 Time of Day Restrictions. It shall be unlawful for any person, whether licensed or not, to Solicit at a Residence before 9:00 a.m. or after 9:00 p.m Mountain Time, unless the Solicitor has express prior permission from the resident to do so.

000-020 Buyer's Right to Cancel. In any Home Solicitation Sale, unless the buyer requests the Solicitor to provide Goods or Services without delay in an emergency, the seller or Solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by ' 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State or Federal law modifying or amending such provision.

000-021 Penalties. Any person who violates any term or provision of this Chapter shall be guilty of a Class B Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months.

Attachment B: Ordinance

SALT LAKE CITY ORDINANCE
No. _____ of 2007
(Amending Solicitation, Peddling and Sales Promotion Activities)

AN ORDINANCE AMENDING CHAPTER 5.64, *SALT LAKE CITY CODE*,
PERTAINING TO SOLICITATION, PEDDLING AND SALES PROMOTION ACTIVITIES.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Chapter 5.64, *Salt Lake City Code*, pertaining to solicitation, peddling and sales promotion activities be, and the same hereby is, amended to read as follows:

Article I. General Provisions

5.64.010 Displaying Materials On Streets-Permit Required-Limitations:

- A. It is unlawful for any person to engage in or carry on any business or occupation upon any street in the city, except in, upon or along any of the streets designated in this Cchapter. Except as otherwise provided in this code, no person shall, from any vehicle, stand or structure stationed, placed or located upon any street in the city by display or any advertising matter of any goods, wares, merchandise, fruits or vegetables in or about such vehicle, stand or structure or about such street, invite travelers upon such streets to transact business or purchase any such wares then displayed upon or near such street, nor shall any person leave or permit to remain upon any street in the city any goods, wares, merchandise, fruits or vegetables displayed or offered for sale.
- B. This Cchapter shall not be construed to prohibit the use of the streets to travelers, or to licensed vendors conveying goods, wares, merchandise, fruits or vegetables lawfully upon or along any street while traveling from place to place or house to house exposing, offering for sale or selling such goods, wares, merchandise, fruits or vegetables as peddlers and hawkers.

C. Upon receipt of a written application therefor, the Mmayor may, in his or her discretion and upon such terms as he or she deems necessary, grant to person owning or in lawful possession of real property abutting upon any street written permission to use a portion of the street contiguous to such property to display or sell merchandise for such period of time as is specifically stated in such written permit. Such permission granted may be revoked by the Mmayor at any time without cause.

D. "Street", as used in this Cchapter, means and shall embrace all land platted as a street between the adjacent property lines including sidewalk and parking.

Article II. Interstate And Intrastate Commerce Solicitation And Selling

5.64.120 Registration-Required:

A. Registration; Form: It is unlawful for any person to solicit for the sale of, offer for sale, or sell, from house to house or from place to place within the corporate limits of the City, any goods, wares or merchandise whatsoever, subscriptions to any kind of publication, tickets, coupons or receipts representing value or redeemable in any kind of consideration, whether the same are part of interstate commerce or are solely and strictly within intrastate commerce, without first having registered with the Business Licensing Office~~Chief of Police~~. In so registering, the person desiring to solicit as above described shall complete a registration form provided by the City showing his or her name and home address, and the name and home address of the person, firm or corporation which said person represents.

B. Purpose: It is the declared object and purpose of the City in passing the Ordinance codified herein not to place any interference or burden on interstate commerce or on

constitutionally protected free speech. Rather, said Ordinance is passed as an exercise of the police power for the identification of individuals desiring to solicit business within the corporate limits of the City and for the protection of the residents of the City.

C. Exceptions-Religious And Charitable Solicitations: The requirements of this Article shall not apply to persons or organizations conducting religious solicitations nor to charitable solicitations which are registered with the Utah Division of Consumer Protection as required by the Utah Charitable Solicitation Act or its successor.

5.64.130 Registration-Fee-Identification Card:

The Business Licensing Office~~Chief of Police~~ shall collect from each person registered pursuant to this Article~~Chapter~~, or its successor, at the time of registration, a sum to be determined by the Mayor or the Mayor's designee, but not to exceed twenty five dollars (\$25.00), which sum shall be remitted by the Business Licensing Administrator~~Chief of Police~~ to the City Treasurer. Upon payment of the fee, and provided the person has completed and satisfactorily meets all of the requirements of this Chapter, the Business Licensing Administrator~~Police Chief~~ shall issue to the applicant an identification card which shall constitute a permit for solicitation as provided in this Article~~Chapter~~ for the period of time stated thereon. Every person issued an identification card by the Business Licensing Administrator~~Police Chief~~ shall wear said card in a conspicuous location on the solicitor's outer clothing, above the waist, at all times during any solicitation activity such that the said card is readily visible to persons being solicited.

5.64.140 Registration-Photographs-And-Fingerprints:

At the time of registering, the person desiring to solicit pursuant to this ~~Article~~Chapter, or its successor, shall furnish the ~~Business Licensing Administrator~~Chief of Police with one photograph; ~~also, a set of fingerprints shall be taken by the Chief of Police and the person shall sign his or her name on the registration record kept by the Chief of Police.~~ At the discretion of the Business Licensing Administrator, this photograph may be taken by the Business Licensing Office to facilitate issuance of the identification card required under this Article.

5.64.150 Registration Information—Criminal Background Check:

At the time of registering, the person desiring to solicit pursuant to this Article, or its successor, shall furnish the Business Licensing Administrator an original, dated no older than thirty (30) days prior to the date of registering, of either: (1) a verified criminal history report personal to the registrant, from the Utah Department of Public Safety Bureau of Criminal Identification; or (2) verification, from the Utah Department of Public Safety Bureau of Criminal Identification, that no criminal history exists. Said verification shall be presented in a sealed envelope from the Utah Department of Public Safety Bureau of Criminal Identification.

5.64.160 License—Application—Disclosures Required:

At the time of registering, the person desiring to solicit pursuant to this Article, or its successor, shall submit, on a form to be supplied by the Business Licensing Administrator, the following:

A. Applicant's true and correct 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. Proof of applicant's identity, including any one of the following which bears a photograph of the applicant:

1. Valid driver's license issued by any State;
2. Valid passport issued by the United States;
3. Valid identification card issued by any State;
4. Valid identification card issued by a branch of the United States military.

The Business Licensing Administrator shall review the original document and shall thereafter return said original to the applicant. The Business Licensing Administrator shall note on the application that proof of identity was established, the date on which it was established, and by what means.

D. A statement affirming or denying whether the applicant has been convicted of: (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;

E. A statement affirming or denying whether there are any criminal charges currently pending against the applicant for: (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;

F. A statement affirming or denying whether the applicant has been criminally convicted of a felony within the last ten (10) years;

G. A statement affirming or denying whether the applicant has been incarcerated in a federal or state prison in the past five (5) years;

H. A statement affirming or denying whether the applicant has been convicted of a misdemeanor within the past five (5) years involving (1) moral turpitude, or (2) violent or aggravated conduct involving persons or property;

I. A statement affirming or denying whether a judgment has been entered against the applicant within the last five (5) years for (1) fraud, (2) intentional misrepresentation, or (3) non-discharge of a debt in a bankruptcy proceeding;

J. A statement affirming or denying whether the applicant is currently on parole or probation, or otherwise under house arrest or subject to a tracking device ordered by any court or required by any penal institution;

K. A statement affirming or denying whether the applicant has an outstanding warrant from any jurisdiction; and

L. A statement affirming or denying whether the applicant is currently subject to a protective order issued by a court of competent jurisdiction and which was based on physical or sexual abuse.

5.64.170 Grounds for Denial, Revocation or Suspension:

In addition to those provisions set forth in Section 5.02.250, or its successor, any permit applied for hereunder may be denied, revoked or suspended upon a finding by the Mayor or the designated hearing examiner of any of the following:

A. The applicant or permittee has been convicted of: (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;

- B. The applicant or permittee has been criminally charged with (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;
- C. The applicant or permittee has been convicted of a felony within the last ten (10) years;
- D. The applicant or permittee has been incarcerated in a federal or state prison in the past five (5) years;
- E. The applicant or permittee has been convicted of a misdemeanor within the past five (5) years involving (1) moral turpitude, or (2) violent or aggravated conduct involving persons or property;
- F. A judgment has been entered against the applicant or permittee within the last five (5) years for (1) fraud, (2) intentional misrepresentation, or (3) non-discharge of a debt in a bankruptcy proceeding;
- G. The applicant or permittee is currently on parole or probation, or otherwise under house arrest or subject to a tracking device ordered;
- H. The applicant or permittee has an outstanding warrant from any jurisdiction; and
- J. The applicant or permittee is currently subject to a protective order issued by a court of competent jurisdiction and which was based on physical or sexual abuse.

Article III. Peddling In The Downtown Area

5.64.240 Permission Required-Downtown Area Designated:

- A. Downtown Area: It is unlawful for any person, without specific written permission of the Mayor or the Mayor's designee, to peddle, sell or offer for sale any magazine subscriptions, goods, wares or merchandise whatsoever, in, upon or along any of the following streets:

1. South Temple Street from Second East Street to Fourth West Street;
2. First South Street from Second East Street to Fourth West Street;
3. Second South Street from Second East Street to Fourth West Street;
4. Third South Street from Second East Street to Fourth West Street;
5. Fourth South Street from Second East Street to Fourth West Street;
6. State Street from North Temple Street to Ninth South Street;
7. Main Street from North Temple Street to Ninth South Street;

and no license shall be granted to any person to peddle in, upon or along the said streets above described.

B. Application And Hearing: Any person seeking permission to sell in the above described areas shall make written application to the Mayor or the Mayor's designee. Upon receipt of a written application therefor, the Mayor or Mayor's designee shall hold a public hearing and the hearing officer may, upon a finding of the following conditions, grant to such person permission to display or sell merchandise on the City streets at such location and for such period of time as is specifically stated in such written permit. Such permit will not: 1) create an undue concentration of such peddlers; 2) materially interfere with the free flow of traffic, pedestrian or vehicular; 3) create an undue burden in controlling and policing illegal activities in the vicinity; 4) create a nuisance to the community; or 5) adversely affect the health, safety and morals of the residents of the City. Such permission granted may be revoked by the Mayor or Mayor's designee at any time without cause.

C. Religious And Charitable Solicitations: The requirements of this Article shall not apply to persons or organizations conducting religious solicitations nor to charitable solicitations which are registered with the Utah Division of Consumer Protection as required by the Utah Charitable Solicitations Act or its successor.

5.64.250 License Fees:

(Reserved)

5.64.260 Meat Food Products-Peddling Restrictions:

It is unlawful to peddle any fresh or cured meat except meat food products.

5.64.270 Medicines Prohibited:

It is unlawful to peddle any medicine, nostrum or remedy of any character or description, and no license shall be issued for such purpose.

Article IV. Telephone Solicitation

5.64.280 Permit Required-Fee:

It is unlawful for any person to solicit, or take orders for any wares, merchandise or services by telephoning City residents at their residences without first obtaining a telephone solicitor's permit.

Article V. Temporary Merchants

5.64.290 Definitions:

For the purpose of this Article, the following words and phrases shall be defined as follows:

A. "Participant" means a temporary merchant, not licensed as such, participating in a sales event.

B. "Religious or charitable organizations" means any organization which can provide written approval from the Internal Revenue Service that the organization has been granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code, or its successor.

C. "Sales event" means an event where two (2) or more temporary merchants, not more than one of whom is licensed as a temporary merchant, display any goods, wares or services at a location in the City for the purpose of sale or soliciting orders to be filled in the future, for financial gain or profit.

D. 1. "Temporary merchant" means any person, whether a resident of the City or not, who within the limits of the City:

a. Engages in a temporary business of selling and/or delivering goods, wares or services, or who conducts meetings open to the general public where franchises, distributorships, contracts or business opportunities are offered to the public; or

b. Sells, offers or exhibits for sale any goods, wares or services, franchises, distributorships, contracts or business opportunities, during the course of or any time within six (6) months after a lecture or public meeting pertaining to such goods, wares, services, franchises, business opportunities, contracts or distributorships.

2. The foregoing notwithstanding, a temporary merchant, for the purposes of this Section, shall not include the following:

a. A person who shall occupy any business establishment for the purpose of conducting a permanent business therein; provided, however, that no person shall be relieved from the provisions of this Chapter by reason of a temporary association with any local dealer, trader,

merchant or auctioneer, or by conducting such temporary or transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer; or

b. Any sales of merchandise damaged by smoke or fire, or of bankrupt concerns, where such stock has been acquired from a merchant or merchants of the City regularly licensed and engaged in business; provided, however, no such stock of merchandise shall be augmented by new goods;

or

c. A person who sells his or her own property which was not acquired for resale, barter or exchange, and who does not conduct such sales more than twice during any calendar year; or

d. Art exhibits, where participating artists sell their original works, and which do not contain any sale(s) of artwork purchased or taken on consignment and held for resale, providing such art exhibits are sponsored by a local, responsible organization;

e. "Religious or charitable organizations" as defined in this Section;

f. Sales of goods, wares or services at a convention, meeting or exposition which is not open to nor advertised to the general public, to the extent such sales are made to registered members of the sponsoring organization, provided the sponsoring organization or its designated agent delivers to the City license supervisor, at least fifteen (15) days in advance of such convention, meeting or exposition, a statement of the organization's qualification for this exemption and a statement of the common interest or category of those who will be attending such convention, meeting or exposition; and providing all persons selling or purchasing goods, wares or services at such convention, meeting or exposition shall wear or display in a conspicuous manner a tag stating the name of the sponsoring organization;

E. "Temporary merchant sponsor" means any person who leases or rents a building or portion of a building or other space for the purpose of conducting a sales event with two (2) or more participants.

5.64.300 License-Required:

It is unlawful for any person to engage in, carry on or conduct the business of a temporary merchant in the City without first obtaining a license.

5.64.310 License-Fee:

The license fee for engaging in, carrying on or conducting business as a temporary merchant shall be the sum as set forth in Section 5.04.070 of this Title, or its successor.

5.64.320 Participant License-Required:

A participant shall not be required to obtain the license required by Section 5.64.300 of this Article or its successor, but it is unlawful for a participant to transact any business at a sales event without obtaining a license therefor and without acting under a licensed temporary merchant sponsor.

5.64.330 Participant License-Fee:

The license fee for a participant shall be as set forth in Section 5.04.070 of this Title, or its successor.

5.64.340 Temporary Merchant Sponsor License-Required:

It is unlawful for any person to act in the capacity of a temporary merchant sponsor in the City without first obtaining a license.

5.64.350 Temporary Merchant Sponsor License-Fee:

The license fee for a temporary merchant sponsor shall be as set forth in Section 5.04.070 of this Title, or its successor. A licensed temporary merchant is exempt from the requirements of this Section.

5.64.360 Merchants And Merchant Sponsors-Information Required:

A. A temporary merchant sponsor or a licensed temporary merchant must submit to the license office, at least fifteen (15) days prior to a sales event, the following information:

1. A list of all participants, including their names and addresses;
2. Location of the sales event;
3. Dates of commencement and termination of the sales event.

B. In the event the temporary merchant sponsor or a licensed temporary merchant shall desire to add additional participants after the above information has been submitted to the license office, such sponsor or merchant must notify the License Department and update the list of participants.

5.64.370 Identity Of Merchants-Hearing And Determination:

A. Merchant-Dispute As To Status: If an applicant claims to be a permanent merchant and nevertheless is required to take out a temporary merchant license, the license office shall so notify the applicant in writing; and if the applicant denies in writing that he, she or it is a temporary merchant within the terms of subsection 5.64.290D of this Article, or its successor, the license office shall submit to a hearing examiner for a hearing in accordance with Chapter 5.02 of this Title, or its successor, to take up for hearing the question as to whether the applicant is or is not a temporary merchant.

B. Hearing Determination: At the time and place named in the notice, the hearing examiner shall take up the matter and shall determine the question upon the facts presented, and shall enter an order according to the hearing examiner's judgment upon the facts so presented. If the hearing examiner determines that the applicant is a temporary merchant, the applicant shall pay the license fee provided in Section 5.64.310 of this Article, or its successor, ~~or, in lieu of payment of the license fee, the applicant may give a corporate surety bond to the city in the penal sum of two thousand dollars (\$2,000.00), to be approved by the mayor, to secure the payment of the license fee required in the event the applicant fails to become a permanent merchant. If the applicant remains in business in the city for six (6) months, the applicant shall be deemed a permanent merchant, and the bond shall thereafter be of no force and effect.~~

5.64.380 Each Sale Without A License-Separate Offense:

The sale of each article by a temporary merchant, a temporary merchant sponsor or a participant, without a license therefor, shall be a separate offense under and a separate violation of this Chapter.

Article VI. Miscellaneous Door To Door Sales

5.64.410 License And Identification Required-Fee:

It is unlawful for any person to solicit, or take orders for goods, wares, merchandise, books, periodicals, subscriptions, photographs or services from door to door or from private residence to private residence, or in, upon or along the streets of the city without first obtaining a license and identification to do so.

5.64.420 ~~Photographs And Fingerprints:~~

At the time of registering, the person desiring to solicit pursuant to Section 5.64.410 of this Article, or its successor, shall furnish the Business Licensing Administrator~~chief of police~~ with one photograph; ~~also, a set of fingerprints shall be taken by the chief of police and the person shall sign his or her name on the registration record kept by the chief of police.~~ At the discretion of the Business Licensing Administrator, this photograph may be taken by the Business Licensing Office to facilitate issuance of the identification card required under this Article.

5.64.430 Criminal Background Check:

At the time of registering, the person desiring to solicit pursuant to this Chapter, or its successor, shall furnish the Business Licensing Administrator an original, dated no older than thirty (30) days prior to the date of registering, of either: (1) a verified criminal history report personal to the registrant, from the Utah Department of Public Safety Bureau of Criminal Identification; or (2) verification, from the Utah Department of Public Safety Bureau of Criminal Identification, that no criminal history exists. Said verification shall be presented in a sealed envelope from the Utah Department of Public Safety Bureau of Criminal Investigations.

5.64.440~~30~~ Registration Fee:

The Business Licensing Office~~chief of police~~ shall collect from each person registered pursuant to Section 5.64.410 of this Article, or its successor, at the time of registration, the sum of fifteen dollars (\$15.00), which sum shall be remitted by the Business Licensing Administrator~~chief of police~~ to the City Treasurer. Upon payment of the fee, and provided the person has completed and satisfactorily meets all of the requirements of this Chapter, the Business Licensing Administrator~~chief of police~~ shall issue to the applicant an identification card,

which shall constitute a permit for solicitation as provided in this ~~Article~~chapter for the period of time stated thereon. Every person issued an identification card by the Business Licensing Administrator shall wear said card in a conspicuous location on the solicitor's outer clothing, above the waist, at all times during any solicitation activity such that the said card is readily visible to persons being solicited.

5.64.450 License—Application—Disclosures Required:

At the time of registering, the person desiring to solicit pursuant to this Article, or its successor, shall submit, on a form to be supplied by the Business Licensing Administrator, the following:

A. Applicant's true and correct 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. Proof of applicant's identity, including any one of the following which bears a photograph of the applicant:

1. Valid driver's license issued by any State;

2. Valid passport issued by the United States;

3. Valid identification card issued by any State;

4. Valid identification card issued by a branch of the United States military.

The Business Licensing Administrator shall review the original document and shall thereafter return said original to the applicant. The Business Licensing Administrator shall note on the application that proof of identity was established, the date on which it was established, and by what means.

D. A statement affirming or denying whether the applicant has been convicted of: (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;

E. A statement affirming or denying whether there are any criminal charges currently pending against the applicant for: (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;

F. A statement affirming or denying whether the applicant has been criminally convicted of a felony within the last ten (10) years;

G. A statement affirming or denying whether the applicant has been incarcerated in a federal or state prison in the past five (5) years;

H. A statement affirming or denying whether the applicant has been convicted of a misdemeanor within the past five (5) years involving (1) moral turpitude, or (2) violent or aggravated conduct involving persons or property;

I. A statement affirming or denying whether a judgment has been entered against the applicant within the last five (5) years for (1) fraud, (2) intentional misrepresentation, or (3) non-discharge of a debt in a bankruptcy proceeding;

J. A statement affirming or denying whether the applicant is currently on parole or probation, or otherwise under house arrest or subject to a tracking device ordered by any court or required by any penal institution;

K. A statement affirming or denying whether the applicant has an outstanding warrant from any jurisdiction; and

L. A statement affirming or denying whether the applicant is currently subject to a protective order issued by a court of competent jurisdiction and which was based on physical or sexual abuse.

5.64.460 Grounds for Denial, Revocation or Suspension:

In addition to those provisions set forth in Section 5.02.250, or its successor, any permit applied for hereunder may be denied, revoked or suspended upon a finding by the Mayor or the designated hearing examiner of any of the following:

A. The applicant or permittee has been convicted of: (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;

B. The applicant or permittee has been criminally charged with (1) felony homicide, (2) physical abuse, (3) sexual abuse, (4) exploiting a minor, (5) sale or distribution of a controlled substance, or (6) sexual assault of any kind;

C. The applicant or permittee has been convicted of a felony within the last ten (10) years;

D. The applicant or permittee has been incarcerated in a federal or state prison in the past five (5) years;

E. The applicant or permittee has been convicted of a misdemeanor within the past five (5) years involving (1) moral turpitude, or (2) violent or aggravated conduct involving persons or property;

F. A judgment has been entered against the applicant or permittee within the last five (5) years for (1) fraud, (2) intentional misrepresentation, or (3) non-discharge of a debt in a bankruptcy proceeding;

G. The applicant or permittee is currently on parole or probation, or otherwise under house arrest or subject to a tracking device ordered;

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

J. The applicant or permittee is currently subject to a protective order issued by a court of competent jurisdiction and which was based on physical or sexual abuse.

Article VII. Mobile Ice Cream Vendors

5.64.510 Purpose And Intent:

The city council expressly finds that vehicles in which ice cream, confections and other frozen dessert products are carried for purposes of retail sale on the public streets pose special dangers to the public health, safety and welfare of children and residents in the city of Salt Lake City. It is the purpose and intent of the city council, in enacting this Aarticle, to provide responsible companies and individuals who engage in the operation of ice cream trucks with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

5.64.520 Business License Required:

It shall be unlawful for any person to engage in the business of mobile ice cream, confection or other frozen dessert vending unless he/she has first obtained a business license from the business license office. All business licenses shall be issued according to regulations established by this Aarticle and all other applicable ordinances of the city. In addition to the business license, any person who operates an ice cream truck shall obtain and maintain in full force and effect a valid

ice cream truck operator's license issued by the Police Department of the city. The use of the term "ice cream" in this Article shall include confections and other frozen desserts.

5.64.530 Application For Business License:

The application for a mobile ice cream vending business license shall contain all information relevant and necessary to determine whether a particular license may be issued, including, but not limited to:

- A. The full name, current address, telephone number, and proof of identity of the applicant and all persons who will be operating an ice cream truck as a part of the applicant's business;
- B. A brief description of the nature, character, and quality of goods, wares, or merchandise to be offered for sale;
- C. The specific routes, if any, along which the vendor intends to conduct business;
- D. If the applicant is employed by another, the name and address of the person, firm, association, organization, company, or corporation; and
- E. A description of all ice cream trucks to be used in the business, together with the motor vehicle registration numbers and license numbers.

5.64.540 Health Inspection Certificate:

Any application for a mobile ice cream vending license shall require a health permit from the Utah Department of Agriculture or its successor agency requiring such health permit in addition to the regular business license. The applicant's equipment shall be subject to inspections by the Utah Department of Agriculture or its successor agency requiring such inspections at the time of application and at periodic intervals thereafter.

5.64.550 Permitting Unlicensed Operator Unlawful:

It is unlawful for any person who owns or controls an ice cream truck to permit it to be driven, and no ice cream truck licensed by the city shall be so driven at any time in the operation of the business, unless the ice cream truck is operated by a driver who has then in force a valid ice cream truck operator's license issued under the provisions of this Aarticle.

5.64.560 Driver's License-Application:

An application for an ice cream truck operator's license shall be filed with the business license office of the city on forms provided by the city.

5.64.570 Application-Verification:

The application for a mobile ice cream vendor business license and for an ice cream truck operator's license shall be verified by the applicant under oath, and he/she shall be required to swear to the truthfulness of the matters contained upon the application.

5.64.580 Application-Fee Required:

At the time the ice cream truck operator's application is filed, the applicant shall pay to the Bbusiness Licensing Office a fee, in an amount to be determined by the Mayor or his or her designee, but not to exceed thirty dollars (\$30.00), which sum shall be remitted by the Business Licensing Administrator to the City Treasurer. Upon payment of the fee, and provided the person has completed and satisfactorily meets all of the requirements of this Chapter, the Business Licensing Administrator shall issue to the applicant an identification card which shall constitute a permit for solicitation as provided in this Article for the period of time stated thereon. Every person issued an identification card by the Business Licensing Administrator

shall wear said card in a conspicuous location on the solicitor's outer clothing, above the waist, at all times during any solicitation activity such that the said card is readily visible to persons being solicited.

5.64.590 State Motor Vehicle Permit Required:

Before any application is finally passed upon by the city, the applicant shall be required to show that such applicant has a current Utah motor vehicle permit and shall provide a conforming copy of such permit with the operator application referred to in Section 5.64.600 of this Article, or its successor section.

5.64.600 Operator Application Form Requirements:

The prospective applicant for an ice cream truck operator's license shall be required to complete an operator application form containing the following information:

- A. The correct legal name of each applicant;
- B. For each applicant, the application must also state:
 - 1. Any other names or aliases used by the individual,
 - 2. The age, date and place of birth,
 - 3. Height,
 - 4. Weight,
 - 5. Color of hair,
 - 6. Color of eyes,
 - 7. Present business address and telephone number,
 - 8. Present residence and telephone number,

9. Utah driver's license or identification number, and

10. Social security number;

C. A statement of the business, occupation or employment history of the applicant for three (3) years immediately preceding the date of the filing of the application;

D. A statement detailing the license or permit history of the applicant for the five (5) year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state or territory, has ever had a license, permit or authorization to do business denied, revoked or suspended, or has had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application;

E. All criminal convictions or pleas of nolo contendere, except those that have been expunged, and the disposition of all such arrests for the applicant for five (5) years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony, a class A misdemeanor, or an alcohol related offense shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere and sentence of each conviction or other disposition; identifying the convicting jurisdiction and sentencing court and providing the court identifying case numbers or docket numbers. Application for an ice cream

truck operator's license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the ice cream truck operator's license;

F. A written certification from the mobile ice cream vending business by which the applicant operator is employed that the applicant operator has received training from the said ice cream vending business as to operational requirements of this Aarticle.

5.64.610 Photographs Required:

At the time of application, the person desiring an ice cream truck operator's license shall furnish the Business Licensing Administrator with one photograph~~The applicant for an ice cream truck operator's license shall be required to have a photograph taken of him/her at police headquarters; applicants for renewal of such licenses shall furnish an up to date photograph or have an additional picture taken at police headquarters, as shall be determined and directed by the chief of police. At the discretion of the Business Licensing Administrator, this photograph may be taken by the Business Licensing Office to facilitate issuance of the identification card required under this Article.~~

5.64.620 Application Information—Criminal Background Check:Fingerprints Required:

At the time of application, the person desiring an ice cream truck operator's license shall furnish the Business License Administrator an original, dated no older than thirty (30) days prior to the date of application, of either: (1) a verified criminal history report personal to the applicant, from the Utah Department of Public Safety Bureau of Criminal Identification; or (2) verification, from the Utah Department of Public Safety Bureau of Criminal Identification, that no criminal history

exists. Said verification shall be presented in a sealed envelope from the Utah Department of Public Safety Bureau of Criminal Investigations.~~The prospective applicant for an ice cream truck operator's license shall be required to file with the chief of police two (2) sets of fingerprint impressions, which shall be taken under the supervision of the chief of police.~~

5.64.630 Investigation Of Applicant:

A. The Ppolice Ddepartment shall conduct an investigation of each applicant for each ice cream truck operator's license, and shall review all of the information filed by the applicant as required by this Aarticle. Upon completion of the investigation, the Cchief of Ppolice shall recommend approval or disapproval of the proposed application to the business license administrator on the operator application form.

B. It shall be the duty of the Cchief of Ppolice to report in writing to the business license administrator any misrepresentation or falsification by the applicant on the police recommendation form which may be uncovered by the police investigation, and any such misrepresentation or falsification will constitute just cause for the business license administrator to refuse to issue an ice cream truck operator's license, or to suspend or revoke the same if it has been issued.

C. The Ppolice Ddepartment's recommendation required by subsection A of this Ssection shall be based upon:

1. Findings of the criteria specified in Ssection 5.64.600 of this Aarticle, or its successor;

2. The Police Department's recommendation may take into account the length of time between any criminal conviction and the application for the license and may also take into account the applicant's rehabilitation efforts, if any.

5.64.640 Driver's Qualifications:

A. Except as hereinafter set forth, no permit or renewal of an ice cream truck operator's license shall be issued to any of the following persons:

1. Any person under the age of twenty one (21) years;
2. Any person who is currently required to register pursuant to the Utah penal code, Section 77-27-21.5, Utah Code Annotated, sex offender registration, or its successor;
3. Any person who has been convicted of a crime involving moral turpitude, narcotic or dangerous drugs, a felony conviction for an offense against a person or property, unless a period of not less than five (5) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
4. Any person who has been convicted of driving a vehicle recklessly within the five (5) years immediately preceding application for a permit;
5. Any person who has been convicted of driving a vehicle while under the influence of alcohol or a controlled substance, or of being in or about a vehicle while under the influence of alcohol or a controlled substance with the intent of driving such vehicle, within the five (5) years immediately preceding application for a permit;
6. Any person who has been convicted of two (2) or more felonies;

7. Any person who does not comply with the requirements of Section 5.64.600 of this Article, or its successor.

B. Notwithstanding the provisions of subsection A3 or A6 of this Section, if the hearing examiner receives letters or testimony at a hearing, as provided in Chapter 5.02 of this Title, which proves by a preponderance of the evidence that the applicant has reformed his/her moral character so as to pose no threat to members of the public, the license shall be issued. Part of the letters or testimony used to establish the preponderance shall come from the applicant's parole officer, if the applicant is still on parole. Failure to provide a recommendation from the applicant's parole officer, if the applicant is on parole, shall be grounds to deny the request.

5.64.650 Hearing Upon Rejection:

If the application either for a business license or for an ice cream truck operator's license is rejected, the applicant shall be entitled, upon request, to a hearing before a hearing examiner as provided in Chapter 5.02 of this Title, or its successor.

5.64.660 Issuance Of License:

A. The business license administrator shall notify the applicant in writing of the city's decision to issue or deny either the business license or an ice cream truck operator's license, not later than five (5) working days after the applicant has filed a completed application as provided in this Article. In the event the city's review of the business license application or the operator application has not been completed within five (5) days of the filing of a completed application, the business license administrator shall send written notification to the applicant that the review period has been extended to a date no later than forty five (45) days from the filing of the

completed application. If the license has not been denied within forty five (45) days of the filing of the completed application, the license for which the application was filed shall be deemed to be issued.

B. All licenses, permits, and identification cards issued pursuant to this Aarticle are valid for one year, unless suspended or revoked, and shall be both nonassignable and nontransferable.

5.64.670 Business License Fees:

Any vendor granted a vending license under this Articlechapter shall pay the annual business license fee established in Section 5.04.070 of this Title or its successor.

5.64.680 Display Of Identification Cards And Other Permits:

A. Any license or permit issued by the business license office shall be carried with the licensee whenever he/she is engaged in vending. Identification cards and health permits shall also be properly and conspicuously displayed at all times during the operation of the vending business.

B. An identification card shall be deemed to be properly displayed when it is attached to the outer garment of the vendor and clearly visible to the public and law enforcement officials. A health permit shall be deemed to be properly displayed when attached to the ice cream truck and clearly visible to the public and law enforcement officials.

C. In addition to the foregoing, there shall be printed on both sides of the exterior of the vehicle being used for vending, in letters or numbers at least three inches (3") high and three inches (3") wide the name and current business telephone number of the mobile ice cream

vending business for which said vehicle is operating and the Salt Lake City business license identification number of the business.

5.64.690 Notification Of Name, Address Or Telephone Change:

All vendors shall assure that a current and correct name, residence address, mailing address, and business telephone number are on file with the business license division. Whenever the name or address provided by a licensed vendor on his/her application for a vending license changes, the licensee shall notify the business license administrator in writing within fourteen (14) days of such change and provide the same with the name, address, or telephone number change.

5.64.700 Exemptions:

The provisions of this Article do not apply to:

- A. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment, or transfer;
- B. The placing and maintenance of unattended stands or sales devices for the sale, display, or offering for sale of newspapers, magazines, periodicals, and paperbound books; or
- C. The distribution of free samples of goods, wares, and merchandise by any individual from his/her person.

5.64.710 Claims Of Exemption:

Any person claiming to be legally exempt from the regulations set forth in this Article or from the payment of a license fee shall cite to the business license administrator the statute or other legal authority under which exemption is claimed and shall present to the business license

administrator proof of qualification for such exemption. In the event such claim is asserted, the business license administrator shall review the claim with the city attorney's office.

5.64.720 Noise Restrictions:

No person shall use, play or employ any sound, outcry, amplifier, loudspeaker or any other instrument or device for the production of sound from an ice cream truck:

- A. When the ice cream truck is stationary;
- B. Earlier than ten o'clock (10:00) A.M., nor later than eight o'clock (8:00) P.M. or one-half (1/2) hour after sunset, whichever occurs first. Sunset shall be determined on any particular day by the times listed that day in any newspaper of general circulation in Salt Lake County;
- C. In such a manner that such sound is plainly audible three hundred thirty feet (330') from such vehicle; or
- D. Along the same block face traveling in either direction on the street more than once every two (2) consecutive hours.

5.64.730 Use Of Public Streets:

A. Each person or business selling, offering to sell, or displaying for sale ice cream or similar frozen desserts from or on motorized vehicles on public streets shall abide by the following conditions and requirements. Failure to comply may result in the suspension or revocation of a business license or police identification card, and is a class B misdemeanor:

1. The motorized vehicle shall have a clearly audible backup warning device that activates whenever the vehicle is shifted into reverse gear.

2. The motorized vehicle shall have a convex mirror mounted on the front of the vehicle so that the driver, in a normal driving position, can see the area in front of the vehicle that is obscured by the hood.
3. The motorized vehicle shall have at least two (2) flashing yellow beacons on the roof of the vehicle, one at the front and one at the rear, at least one of which is visible from all sides of the vehicle. These beacons shall be activated whenever merchandise is being sold, offered for sale, or displayed for sale.
4. The motorized vehicle shall have an operable swing arm attached to its left side. This swing arm shall be of a type, size, and description approved by the city, and shall be activated whenever the vehicle stops to sell, offers to sell, or displays merchandise on a public street.
5. The motorized vehicle shall have a sign or decal on the front and on the rear of the vehicle in letters at least six inches (6") in height and visible for two hundred feet (200') along a level, straight highway, identifying the vehicle as an ice cream truck and containing the words "Children Crossing".
6. The motorized vehicle shall be prohibited from pulling any type of trailer.
7. Retail merchandise may not be sold, offered for sale, or displayed for sale from or on motorized vehicles on public streets where the speed limit exceeds twenty five (25) miles per hour.
8. The operator of the motorized vehicle shall not sell to any person standing in the roadway.

9. The operator of the motorized vehicle shall sell, offer to sell, or display for sale retail merchandise only when the vehicle is completely stopped and lawfully parked, and shall sell only from the rear or side of the vehicle nearest to the curb or edge of the roadway.

10. The motorized vehicle shall not be moved backwards in order to sell, offer to sell, or display for sale retail merchandise.

11. Each applicant for a license or renewal under this Article shall submit, with its application, a certificate of insurance executed by an insurance company or association authorized to transact business in this state, approved as to form by the city attorney, that there is in full force and effect general liability insurance in an amount not less than two hundred fifty thousand dollars (\$250,000.00) for one person in any one occurrence, five hundred thousand dollars (\$500,000.00) for two (2) or more persons in any one occurrence and one hundred thousand dollars (\$100,000.00) for property damage, or such greater amounts as set forth in Section 63-30-34, Utah Code Annotated, 1953, as amended, or its successor. Such policy or policies shall include coverage of all motor vehicles used in connection with applicant's business. A current certificate of insurance shall be kept on file with the city recorder at all times that applicant is licensed by the city verifying such continuing coverage and naming the city as an additional insured. The certificate shall contain a statement that the city will be given written notification at least thirty (30) days prior to cancellation or material change in the coverage without reservation of nonliability for failure to so notify the city. Cancellation shall constitute grounds for revocation of the license issued hereunder unless another insurance policy complying herewith is provided and is in effect at the time of cancellation/termination.

12. All motorized vehicles of the applicant and operators shall comply with all other requirements of this Article and any other requirements of ordinance or statute that may be applicable.

B. The prohibitions of this Section shall not be construed to prohibit vehicles from carrying business markings or advertising not otherwise prohibited by law.

5.64.740 Vehicle Inspection Prior To Licensing-Fee Required:

Prior to the use and operation of any vehicle under the provisions of this Article~~chapter~~, and annually thereafter while being operated by the business licensee hereunder, the vehicle shall be thoroughly examined and inspected by an authorized representative of the city, and found to comply with the requirements of this Article~~chapter~~. In addition, the vehicle shall at all times in which it is in operation as an ice cream truck within the city be maintained in conformity with the safety inspection requirements of Utah and federal law. The licensee shall pay to the city an inspection fee of twenty five dollars (\$25.00) per truck for each such inspection.

5.64.750 Suspension And Revocation Of License:

A. In addition to any penalties that may be imposed, any license issued under this Article may be suspended or revoked for any of the following reasons:

1. Fraud, misrepresentation, or knowingly false statement contained in the application for the license;
2. Fraud, misrepresentation, or knowingly false statement in the course of carrying on the business of vending;
3. Conducting the business of vending in any manner contrary to the conditions of the license;

4. Conducting the business of vending in such a manner as to create a public nuisance; cause a breach of the peace; constitute a danger to the public health, safety, welfare, or morals; or interfere with the rights of property owners; or
5. Cancellation of Utah department of agriculture authorization, or of the required authorization of any successor agency, for a food or beverage vending unit due to uncorrected health or sanitation violations.

B. The business license administrator shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the licensee or permittee of the appeal procedure. Such notice shall be mailed to the address shown on the license holder's application by certified mail, return receipt requested.

C. If the city revokes a vending license or permit, the fee already paid for the license or permit shall be forfeited. A person whose license or permit has been revoked under this Section may not apply for a new license for a period of one year from the date that the revocation took effect.

5.64.760 Appeals:

If the business license administrator denies the issuance of a license or permit, suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may appeal the administrator's decision in accordance with Sections 5.02.260, 5.02.280, and 5.02.290 of this Title.

5.64.770 Renewals:

A mobile ice cream vending license may be renewed, provided an application for renewal and license fees are received by the city no later than the expiration date of the current license. Any application received after that date shall be processed as a new application.

SECTION 2. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2007.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2007.

Published: _____.

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