

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

Title 5
BUSINESS TAXES LICENSES AND REGULATIONS

Chapters:

- 5-01 Business Licenses
- 5-02 Home Occupations
- 5-04 Beer
- 5-08 Public Dance halls
- 5-09 Solicitors
- 5-10 Sexually Oriented Businesses

Chapter 5-01
BUSINESS LICENSES

Sections:

- 5-01-010 Definitions
- 5-01-020 License Required
- 5-01-030 Exemptions
- 5-01-040 Obtaining a License
- 5-01-050 Scope and Coverage of A License
- 5-01-060 Transferability and Amendability of a License
- 5-01-070 Posting Of License
- 5-01-080 License Fees--When Due
- 5-01-090 Failure to Pay Fee-Penalty
- 5-01-100 Enforcement--Right of Entry
- 5-01-110 Revocations, Suspensions, Denials,
Modifications and Their Appeal
- 5-01-120 Other License and Fees Not Excused
- 5-01-130 Effect on Past Actions and Obligations
- 5-01-140 Fees and Penalties

5-01-010 DEFINITIONS:

For the purpose of this Chapter, the following words shall have the meaning respectively ascribed to them by this Section:

“Business” includes professions, trades, occupations and every kind of calling, whether or not carried on for profit.

“Licensee” means any person to whom a license has been issued pursuant to the provisions of this Chapter.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

“Person” means any corporation, association, organization, syndicate, partnership, trust, society, entity and/or individual engaged in business in this City.

“Regulation” means any Federal, State and/or City constitution law, statute, code, ordinance, resolution, regulation, etc. (Ord. 99-01, 1999)

5-01-020 LICENSE REQUIRED:

It is unlawful for any person to transact and carry on any business in the City without first having obtained a license from the City to do so, unless exempted by this Chapter. (Ord. 99-01- 1999)

5-01-030 EXEMPTIONS:

- A. Any religious, nonprofit, charitable, or governmental organization is exempted from obtaining a City business license, so long as they have exempt status under Federal law (e.g., Internal Revenue Code § 503).
- B. Any person exempted from local licensing under State and/or Federal statute is not required to obtain a City business license.
- C. Certain “home occupations¹” may be exempted.
- D. An employee is exempted for all actions relating to his work for his properly license employer.
- E. Any person claiming exemption pursuant to this Section shall (if notified by the business license clerk) file a statement with the business license clerk stating the facts upon which the exemption is claimed.
- F. Upon verification, the business license clerk shall grant a written exemption to such person for such activity, if the activity is determined to be “exempt”. (Ord. 99-01, 1999)

5-01-040 OBTAINING A LICENSE:

- A. In order to obtain a license the person must do all of the following:
 1. Submit a completed City-approved business license application.
 2. Pay the fees for such business as set by resolution.
 3. Comply with all regulations related to the business.
- B. Upon fulfilling all requirements, the business license clerk shall issue to such person a license which shall contain all of the following:
 1. The name of the person to whom the license is issued.
 2. The name of the business so licensed.
 3. The place where such business is licensed to be transacted and carried on.
 4. The date of expiration of such license.
 5. Type of business being licensed.
 6. Such other information as may be necessary for the enforcement of the provisions of this Chapter. (Ord. 99-01, 1999)

5-01-050 SCOPE AND COVERAGE OF A LICENSE:

Each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location designated in such license. For licensing purposes, warehouses and distribution plants used in connection with and incidental to a business license under the provisions of this Chapter shall not be deemed to be separate places of business for licensing purposes. (Ord. 99-01, 1999)

5-01-060 TRANSFERABILITY AND AMENDABILITY OF A LICENSE:

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- A. No license issued pursuant to this Chapter shall be transferable. However, in the case where an existing business is being sold, the new owner may pay only the “change of license fee” for this license, if all of the following conditions are met:
 - 1. The former owner surrenders his valid/current license to the business license clerk, or signs an affidavit declaring such.
 - 2. The new owner does not make any significant changes to the business or its activities.
 - 3. The business is in full compliance with all regulations relating to it.
- B. In order to amend a license to allow a person to change his place of business to a new location, the person must meet all of the following conditions:
 - 1. Be in compliance with all regulations relating to the business.
 - 2. Fill out a City-approved application for such location change.
 - 3. Have approval from the appropriate City officials and/or governing bodies (e.g., Building Inspector, zone enforcement officer, business license clerk, Planning Commission, etc.).
 - 4. Pay the “change of license fee”. (Ord. 99-01, 1999)

5-01-070 POSTING OF LICENSE:

All licenses shall be kept and posted in the following manner:

- A. Any licensee transacting and carrying on business at a fixed place of business in the City shall keep a license posted in a conspicuous place upon the premises where such business is carried on.
- B. Any licensee transacting and carrying on business but not operating a fixed place of business in the City shall keep a license upon his person at all times while transacting and carrying on such business. (Ord. 99-01, 1999)

5-01-080 LICENSE FEES--WHEN DUE:

- A. Unless otherwise specifically provided, all annual license fees required under the provisions of this Chapter shall be due and payable in advance by January 2 or if such falls on a weekend/holiday the first business day thereafter.
- B. License fees for any business commenced after January 1 shall be due and payable prior to commencing business. This includes annual licenses for new businesses, special events, temporary licenses, etc. (Ord. 99-01, 1999)
- C. If no response is received by January 15, the business owner will be sent a delinquency letter and allowed fifteen (15) days to purchase a license and come into compliance. If there is no response by February 1, a certified letter will be sent from the City Attorney notifying the business they have ten (10) days to obtain a business license before legal action is taken which could result in the closure of the business. (Ord. 2000-02, 2000)

5-01-090 FAILURE TO PAY FEE--PENALTY:

Any person not paying the necessary fees by the due date shall be assessed a penalty of ten percent (10%) of the total fee and shall also pay interest on all past due amounts (including penalties) at the rate of 1.5 percent per month. (Ord. 99-01, 1999)

5-01-100 ENFORCEMENT--RIGHT OF ENTRY:

- A. It is the duty of the business license clerk to enforce all provisions of this Chapter. The business license clerk may use the assistance of other City staff and/or law enforcement to enforce this Chapter as he/she deems reasonable.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- B. The business license clerk, in the exercise of the duties imposed by this Chapter may examine or cause to be examined all places of business in the City to ascertain whether the provisions of this Chapter have been complied with.
- C. The business license clerk and each of his assistants and any law enforcement officer shall have the power and authority to enter, free of charge and at any reasonable time, any place of business required to be licensed under this Chapter and demand an exhibition of its license certificate. It is unlawful for any person having any such license certificate in his possession and/or under his control, to willfully fail to exhibit the same on demand.
- D. It shall be the duty of the business license clerk and each of his assistants to cause criminal information to be filed against any person found to be willfully violating any provisions of this Chapter. (Ord. 99-01, 1999)

5-01-110 REVOCATIONS, SUSPENSIONS, DENIALS, MODIFICATIONS, AND THEIR APPEAL:

- A. The business license clerk may deny the issuance of a license for noncompliance with any regulation related to the business.
- B. In addition, the business license clerk, after giving notice and reasonable opportunity for a hearing to a licensee, may revoke, suspend, or modify any existing license for noncompliance with any regulation related to the business.
- C. Any person whose license has been denied, revoked, modified, or suspended by the business license clerk, or who has been notified of such impending action, has the right to appeal to the City Council after having first made a reasonable attempt at addressing the issue with the business license clerk. Any appeal shall be requested in writing to the City Recorder within thirty (30) days after being originally notified by the business license clerk of the contested action. (Ord. 99-01, 1999)

5-01-120 OTHER LICENSES AND FEES NOT EXCUSED:

The licenses and fees required under any regulation shall not exempt the business or any person from the requirements of any other regulation, unless such exemptions are specifically stated in City ordinance. (Ord. 99-01, 1999)

5-01-130 EFFECT ON PAST ACTIONS AND OBLIGATIONS:

The adoption of this Chapter shall not be construed to affect the City's right to seek enforcement, payment, and/or legal recourse against those who prior to this adoption have been in violation of any City ordinance(s) relating to the business. (Ord. 99-01, 1999)

5-01-140 FEES AND PENALTIES:

- A. The City Council shall approve by resolution any fee schedule(s) used by the City.
- B. The amount of any license fee and penalty imposed by the provisions of this Chapter shall be deemed a debt to the City in any court of competent jurisdiction for the amount of any delinquent fees, penalties, attorney fees, and other reasonable costs in collecting the debt.
- C. All remedies prescribed under this Chapter shall be cumulative.
- D. Willful failure to comply with any provisions of this Chapter and/or any related resolutions is a Class B misdemeanor and is punishable as such to the full extent allowed by law. (Ord. 99-01, 1999)

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

Chapter 5-02
HOME OCCUPATIONS

Sections:

- 5-02-010 Definitions
- 5-02-020 Licensing Requirements
- 5-02-030 Exemptions
- 5-02-040 Licensing Procedures for New Business
- 5-02-050 Penalties

5-02-010 DEFINITIONS:

In addition to the definitions(s) given below, the definition and fees employed in Chapter 5-01 of this Title shall also apply to this Section.

“Home occupation” means any business operated from or in a residential premise located in the City.

“Yard sale and garage sale” means a business that offers for sale previously owned private personal property and conducts sale of such on a short-term temporary basis and not as a primary occupation.

“Door-to-door sales” shall not be considered a home occupation and therefore are required to obtain a business license as stipulated under Chapter 5-01 of this Title. (Ord. 99-04-1999)

5-02-020 LICENSING REQUIREMENTS:

All home occupations are required to have a business license unless specifically exempted by this Chapter or Chapter 5-01 of this Title. (Ord. 99-04, 1999)

5-02-030 EXEMPTIONS:

- A. The following described businesses are exempted from the licensing requirement so long as not nuisance is caused by such business:
 - 1. Farmers and ranchers selling their own unprocessed farming and ranching products.
 - 2. Providers of daycare, preschools, nursery schools, babysitting, tutoring, instructions, etc., so long as such is for no more than one family, or for six (6) or fewer children per day, whichever is greater.
 - 3. Any business with annual gross receipts of less than two thousand dollars. (\$2,000.00)
 - 4. Yard and garage sales, so long as:
 - a. The sale lasts no longer than three (3) days.
 - b. No more than two (2) such sales are conducted on the premises in any calendar year.
 - c. The items offered for sale are the personal property of no more than three (3) distinct households.
 - d. Advertising for such yard sale shall begin no sooner than two (2) weeks prior to such sale.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- e. Outdoor and/or yard signs for such sale shall not be put up until the day before the event and shall be removed by the end of the day after such event.
- 5. Vehicle sales of a personally owned vehicle, so long as no more than two (2) such sales are attempted per year and signs are displayed only on/in the vehicle being sold.
- B. In order for any home business/occupation to be exempt from licensing requirements, they must meet all of the following criteria:
 - 1. The owner(s) of the business must be a resident of the premises.
 - 2. All employees working at the residential site must be residents of the premises.
 - 3. No externally visible sign is allowed, unless specifically permitted by this Chapter.
 - 4. No nuisance can be created by the business (safety, smell, sight, sound, traffic, parking, etc.).
 - 5. No significant business activity shall occur before seven o'clock (7:00) A.M. or after nine o'clock (9:00) P.M. (Ord. 99-04, 1999)

5-02-040 LICENSING PROCEDURES FOR NEW BUSINESS:

All new home occupations that are not specifically exempt from these requirements must obtain a conditional use permit from the Planning Commission prior to obtaining a business license from the City. (Ord. 99-04, 1999)

5-02-050 PENALTIES:

Willful failure to comply with any provisions of this Chapter and/or any related resolution is a Class B misdemeanor and is punishable to the full extent allowed by law. (Ord. 99-04, 1999)

Chapter 5-04
BEER

Sections:

- 5-04-010 Definitions.
- 5-04-020 Sale--License Required.
- 5-04-030 License--Application.
- 5-04-040 License--Classifications.
- 5-04-050 License--Fees.
- 5-04-060 Qualifications of Licensee.
- 5-04-070 License--Transferability.
- 5-04-080 License--Denial or Revocation.
- 5-04-090 Restrictions on Sales.
- 5-04-100 Inspection of Licensed Premises.
- 5-04-110 Violation--Penalty.

5-04-010 DEFINITIONS.

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

"Beer" means any beverage containing not less than one-half percent of alcohol by weight and obtained by the alcoholic fermentation of an infusion or decoction, of any malted grain, or similar products, and which contains not more than 3.2 percent of alcohol by weight and may or may not contain hops or other vegetable products and includes ale, stout, or porter.

"Containers" includes bottles, cans, and other sealed containers.

"Retailer" means any person engaged in the sale or distribution of beer to the consumer.

"Sell," or "to sell," when used in this chapter, in any prohibition shall be construed to include to solicit or to receive an order for, to keep or expose for sale, to deliver for value or gratuitously, to peddle, to possess with intent to sell, to traffic in, for any consideration promised or obtained directly or indirectly or under any pretext or by any means whatsoever to procure or allow, to be procured for any other person, or "sale" when so used shall include every act of selling as defined in this section. (Ord. 88-7-IA (part), 1988: prior code §2)

5-04-020 SALE--LICENSE REQUIRED.

It is unlawful for any person to engage in the business of the sale of light beer at retail, in containers or on draft within the corporate limits of the City of Enterprise without first having procured a license therefore from the City Council as provided in this chapter. A separate license shall be required for each place of sale and no beer shall be consumed in any restaurant or cafe, unless such place has a license for the sale of beer at retail. All licenses shall at all times be conspicuously displayed in the place of which they shall be issued. All licenses shall comply with the Alcoholic Beverage Control Act and the regulations of the Alcoholic Beverage Control Commission. (Ord. 88-7-1A (part), 1988: prior code §1)

5-04-030 LICENSE--APPLICATION.

Applications for a license to engage in the business of a retailer of beer within the corporate limits of the City of Enterprise shall be made in writing under oath on forms provided by the City Council or such persons as it may delegate and contain such information as the City Council may require. (Ord. 88-7-IA (part), 1988: prior code §4)

5-04-040 LICENSE--CLASSIFICATIONS.

Retail licenses issued under this chapter shall be of the following kinds and shall carry the following privileges and shall be numbered consecutively commencing with the number one:

- A. A class "A" retail license shall entitle the licensee to sell beer in the original containers on the premises for consumption on or off the premises in accordance with the Alcoholic Beverage Control Act.
- B. A class "B" retail license shall entitle the licensee to sell beer on draft for consumption on or off the premises on each day of the week except Sunday, and to all the privileges granted to the holders of class "A" retail licenses in accordance with the Alcoholic Beverage Control Act of Utah. (Ord. 88-7-IA (part), 1988: prior code §3 (part))

5-04-050 LICENSE--FEES.

- A. The applications provided for in this chapter shall be accompanied by the yearly fees hereinafter provided, which fees shall be deposited in the City treasury if the license is granted and returned to the applicant if it is denied; provided, however, that an applicant may apply for a license for a half-year for one-half the yearly fees hereinafter provided plus ten percent of the half-yearly fee.
- B. 1. The City Council shall approve by resolution any fee schedule(s) used by the City.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

2. The amount of license fees imposed by the provisions of this chapter shall be deemed a debt to the City of Enterprise in any court of competent jurisdiction for the amount of any delinquent fees, penalties, attorney fees, and other reasonable costs in collecting the debt.
 3. All remedies prescribed under this chapter shall be cumulative.
 4. Willful failure to comply with any provisions of this ordinance and/or related resolutions is a Class B misdemeanor and is punishable as such to the full extent allowed by law. (Ord. 2006-06, 2006)
- C. All licenses issued under this chapter, if for the yearly fees enumerated in subsection B of this section, shall expire on December 31st of the year in which the same are issued; if for a half-year, they shall expire on the first of the following dates which occur after the license is issued: June 30th and December 31st. (Ord. 88-7-IA (part), 1988: prior code §7)

5-04-060 QUALIFICATIONS OF LICENSEE.

No person shall be granted a retail license unless he is qualified as provided in the Alcoholic Beverage Control Act. (Ord. 88-7-IA (part), 1988: prior code §5)

5-04-070 LICENSE--TRANSFERABILITY.

Licenses issued under this chapter are not transferable, and upon revocation thereof by the City Council, the fee paid by the licensee to the City for the license shall be forfeited to the City. (Ord. 88-7-IA (part), 1988: prior code §6)

5-04-080 LICENSE--DENIAL OR REVOCATION.

The City Council may after a hearing, refuse to grant any license applied for. Any license issued may be revoked if the applicant or licensee shall not meet or shall cease to meet all of the qualifications required by the Alcoholic Beverage Control Act, or fails to comply with the ordinances of the City, or the rules, regulations and orders of the state or City board of health, relating to health matters. (Ord. 88-7-IA (part), 1988: prior code §9)

5-04-090 RESTRICTIONS ON SALES.

- A. It is unlawful for any licensee to purchase or acquire or to have or possess for the purpose of sale or distribution, any beer except that which he has lawfully purchased from a brewer or wholesaler licensed under the privileges of the Alcoholic Beverage Control Act.
- B. No person shall sell beer at any public dance or to any person who is intoxicated, or under the influence of an intoxicating beverage.
- C. No person shall sell beer to any person under the age of twenty-one years, or to any person between the hours of eleven p.m. and six a.m. on any day.
- D. It is unlawful to advertise the sale of light beer except under such regulations as are made by the Alcoholic Beverage Control Act.
- E. It is unlawful for any person under twenty-one years of age to consume beer or to misrepresent his age for the purpose of having beer sold to him.
- F. No licensee shall violate the terms of the license issued, or exceed the privileges accompanying such license, nor unless he has been so licensed, shall he sell bottled or canned beer or beer in other sealed containers on Sunday. (Ord. 88-7-IA (part), 1988: prior code §§ 3(part), 8)

5-04-100 INSPECTION OF LICENSED PREMISES.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

All licensed premises shall be subject to inspection by any officer, agent, or peace officer of said City or the Alcoholic Beverage Control Act or the state or City board of health, upon consent of licensee or after a search warrant has been obtained. (Ord. 88-7-IA (part), 1988: prior code §10)

5-04-110 VIOLATION--PENALTY.

Any person convicted of violating any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five thousand dollars or by imprisonment in the City jail for a period not longer than six months or by both such fine and imprisonment. (Ord. 88-7-IA (part), 1988: prior code §11)

Chapter 5-08
PUBLIC DANCE HALLS

Sections:

- 5-08-010 Restrictions.
- 5-08-020 Supervision.
- 5-08-030 License requirements.
- 5-08-040 Violation--Penalty.

5-08-010 RESTRICTIONS.

It is unlawful for any person conducting a public dance hall or public dancing pavilion, or any other place of amusement, to allow or permit any improper and/or illegal act. (Ord. 88-7-30 (part), 1988: prior code §358)

5-08-020 SUPERVISION.

Every person, firm, or corporation who conducts a public dance hall or public dance pavilion within the City limits of Enterprise, shall at all times while dancing is in progress have a supervisor or manager in charge of such dance, whose duty it is to see that no obscene and/or illegal conduct shall take place within such dance hall, and whose duty it is to report all unlawful acts committed therein to a police officer of the City of Enterprise. (Ord. 88-7-30 (part), 1988: prior code §359)

5-08-030 LICENSE REQUIREMENTS.

- A. It is unlawful to hold any public dance within the City limits of the City of Enterprise before the dance hall, or other place of amusement in which the same is held, has obtained a license from the City of Enterprise to do so as provided in the chapter relating to licenses.
- B. The City Council of Enterprise shall have the right to revoke any license issued to a public dance hall or public dance pavilion, or any other place of amusement, whenever such public dance hall, or public dance pavilion has been conducted at any time during the period for which such license was issued without a supervisor or manager in charge, or whenever said dance hall, or other place of amusement, has been conducted in an illegal, disorderly, or improper manner, or whenever the person conducting such dance hall has been convicted of a violation of any of the provisions of this chapter. No license shall be revoked until a hearing shall have been had by the City Council in the matter. Written notice of the hearing shall be served at least three days prior to the date of such hearing, upon the owner of such license or his or its supervisor, manager or agent. The decision of the City Council at such hearing shall be final and conclusive. If at any time the license of a public dance hall or place of amusement is

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

revoked, at least six months shall elapse before another license shall be given for dancing on the same premises. (Ord. 88-7-30 (part), 1988: prior code §360)

5-08-040 VIOLATION--PENALTY.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be liable to a fine in any sum less than one thousand dollars or to imprisonment in the City jail for a period not to exceed three months, or to both such fine and imprisonment. (Ord. 88-7-30 (part), 1988: prior code §361)

Chapter 5-09
SOLICITORS

Sections:

- 5-09-010 Purpose
- 5-09-020 Definitions
- 5-09-030 Proof of Identification Required
- 5-09-040 Deceptive Soliciting Practices Prohibited
- 5-09-050 “No Soliciting” Notices
- 5-09-060 Certain Solicitations Prohibited
- 5-09-070 Time of Day
- 5-09-080 Right to Cancel Residential Solicitation Sale
- 5-09-090 Penalties
- 5-09-100 Conflicting Ordinances Void
- 5-09-110 Severability

5-09-010 PURPOSE.

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

1. Commercial residential solicitation generally represents a greater intrusion upon residential privacy than political, religious, or other noncommercial door-to-door solicitation involving the dissemination of ideas. Commercial residential solicitation generally entails a higher incidence of consumer fraud and unfair sales practices than political, religious, or other noncommercial door-to-door solicitation involving the dissemination of ideas. Substantial numbers of city residents do not desire to listen to or otherwise receive commercial solicitations. Additionally, some residents are particularly vulnerable to consumer fraud and unfair consumer sales practices by commercial residential solicitors.
2. The City has found consumer fraud and deceptive, high-pressure, factually unbalanced, or otherwise unfair consumer sales practices are employed significantly less frequently in cases of charitable solicitation and solicitation occurring incident to political, religious, and other noncommercial speech entailing the dissemination of ideas.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

3. The transient nature of the business of residential solicitation makes it difficult to prosecute or to obtain redress for intrusions upon residential privacy and fraudulent or otherwise unfair consumer sales practices by residential solicitors because such solicitors are typically nonresidents of the City and often leave the City immediately upon completion of their commercial solicitation of the City. Furthermore, many companies that employ residential solicitors do not conduct accurate, thorough, and timely criminal background checks on prospective solicitors.

4. The Council finds that the potential and actual harm to citizens from residential solicitation is real, and that the provisions hereinafter set forth will to a material degree alleviate and avoid such harm. The Council has determined that the means chosen as hereinafter stated are reasonable and are closely fitted to achieve the desired objective of protecting citizens from intrusions upon residential privacy, consumer fraud, and unfair consumer sales practices, while simultaneously preserving the rights of others to engage in speech protected by the First Amendment to the United States Constitution and relevant state constitutional provisions. The regulations adopted herein are narrowly drawn and in the judgment of the Council are not more extensive than necessary to serve and protect the interests stated.

5-09-020 DEFINITIONS.

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

1. **Home Solicitation Sale** means a sale of goods or services in which the seller or a person acting for him initiates contact and engages in a face-to-face solicitation of the sale at a residence of the resident and the resident's agreement or offer to purchase is there given to the solicitor or a person acting for him. Home solicitation sale shall not include a sale made between parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, or a sale made within a residence to a third person invited therein by the resident where such sale was not initiated by unsolicited contact by a nonresident of the residence.

2. **Residence** means and Residential refers to any (1) living unit contained within any building or structure that is occupied by any person as a dwelling, together with the lot or other real property on which such residence is located; (2) any apartment, hospital room, nursing home room, assisted living home room, group home, or other similar location; or (3) any building or structure that houses the residence together with the lot or other real property on which such building or structure is located.

3. **Resident** means any person living in a residence.

4. **Solicit, Solicited, Soliciting or Solicitation** means any of the following activities engaged in with a resident at his or her place of residence:

- a. Seeking to obtain orders for the sale or exchange of services, goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;
- b. Seeking to obtain prospective customers to apply for or to purchase insurance, financial services, subscriptions to publications, or publications;
- c. Seeking to obtain contributions of money, services, or anything of value for the benefit of any person, association, organization, corporation, or program;
- d. Seeking to obtain orders or prospective customers for goods or services; or
- e. Seeking to obtain appointments or other opportunities to engage in any of the activities listed in subsections 5-09-020(4)(a) through (d) above.

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

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

5-09-030 PROOF OF IDENTIFICATION REQUIRED.

Any Solicitor shall carry proof of identification and provide it upon request by a Resident, member of law enforcement, or other government or City official. Acceptable forms or documents used to establish proof of identification include:

1. A valid driver license issued by any State;
2. A valid United States Uniformed Service Identification Card;
3. A valid passport issued by the United States;
4. Any other official document issued by the United States or any State thereof which contains the name and photograph of the applicant.

5-09-040 DECEPTIVE SOLICITING PRACTICES PROHIBITED.

1. No Solicitor shall make any materially false or fraudulent statement in the course of soliciting. No Solicitor shall fail to state a material fact necessary to make statements made, in the context of the circumstances under which they are made, not misleading.
2. A Solicitor shall immediately disclose to the resident at the beginning of any face-to-face solicitation, either verbally or by means of a writing to be handed to the resident, (i) the name of the Solicitor; (ii) the name and address of the entity with whom the Solicitor is associated or for which the Solicitor is soliciting; and (iii) the purpose of the Solicitor’s contact with the resident.
3. No Solicitor shall use a fictitious name, an alias, or any name other than his or her legal name.
4. No Solicitor shall represent directly or by implication that the City endorses the solicitation, or his or her product or service.

5-09-050 “NO SOLICITING” NOTICES.

1. Any resident may give notice of his or her unwillingness to listen to solicitations or receive Solicitors by displaying at his or her residence a placard or sign stating “No Soliciting,” “No Solicitors,” “No Trespassing” or words of similar import. Such placard or sign shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.
2. The display of a “No Soliciting” or similar sign or placard at the door of the residence or at the entrance to the building or structure that houses the residence shall constitute notice to any Solicitor that the resident is unwilling to listen to solicitations.

5-09-060 CERTAIN SOLICITATIONS PROHIBITED.

1. It shall be a violation of this Section for any Solicitor to attempt to solicit at a residence at or on which has been posted a “No Soliciting” sign or placard in accordance with subsection (5-09-050) above. All Solicitors shall check each residence for any such sign or placard. If such sign or placard is posted, a Solicitor shall desist from any efforts to solicit at the residence and shall immediately depart there from.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

2. It is a violation of this Section for any Solicitor to knock on the door, ring the door bell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a “No Soliciting” or similar sign or placard. It is a violation of this Section for any Solicitor through ruse, deception, or concealment of a purpose to solicit, to take action calculated to secure an audience with the occupant of a residence that has posted a “No Soliciting” or similar sign or placard.
3. It is a violation of this Section for any Solicitor who is at any time asked by the resident to leave, to fail to immediately and peacefully depart.

5-09-070 TIME OF DAY.

It shall be unlawful for any Solicitor to solicit any person at a residence before 8:00 a.m. or after 9:00 p.m. on business days, or before 9:00 a.m. or after 9:00 p.m. on Saturdays, Sundays, or legal holidays as set forth in Utah Code Ann. § 63-13-2, unless the Solicitor has express prior permission from the resident to do so.

5-09-080 RIGHT TO CANCEL RESIDENTIAL SOLICITATION SALE.

In any residential solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the Solicitor shall present to the resident and obtain resident’s signature on a written statement which informs the resident of his or her unconditional right to cancel the sale on or before the third business day after the date of sale. Any documents memorializing the sale shall accurately set forth the date of the sale. Such notice of “Buyer’s Right to Cancel” shall be in the form required by Utah Code Annotated §70C-5-103, or a current or amended version thereof or any State or federal law modifying or amending such provision.

5-09-090 PENALTIES.

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

5-09-100 CONFLICTING ORDINANCES VOID.

Any Ordinance or provision of the Enterprise City Code which conflict with the provisions of this Section is hereby repealed.

5-09-110 SEVERABILITY.

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

Chapter 5-10
SEXUALLY ORIENTED BUSINESSES

Sections:

- 5-10-010 Title for Citation.
- 5-10-020 Purpose of Provisions.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- 5-10-030 Application of Provisions.
- 5-10-040 Definitions.
- 5-10-050 Obscenity--Statutory Provisions.
- 5-10-060 Location and Zoning Restrictions.
- 5-10-070 Business License Required.
- 5-10-080 Exemptions from License Requirements.
- 5-10-090 Legitimate Artistic Modeling.
- 5-10-100 Business Categories--Number of Licenses.
- 5-10-110 Employee Licenses.
- 5-10-120 License--Application--Disclosures Required.
- 5-10-130 License--Fees.
- 5-10-140 License--Bond.
- 5-10-150 License--Premises location and Name.
- 5-10-160 License--Issuance Conditions.
- 5-10-170 License--Term.
- 5-10-180 License--Notice of Change of Information.
- 5-10-190 License--Transfer Limitations.
- 5-10-200 License--Display.
- 5-10-210 License--Statement in Advertisements.
- 5-10-220 Regulations and Unlawful Activities.
- 5-10-230 Outcall Services--Operation Requirements.
- 5-10-240 Adult Business--Design of Premises.
- 5-10-250 Seminude Entertainment Business--Design of Premises.
- 5-10-260 Seminude Entertainment Business--Location Restriction.
- 5-10-270 Alcohol Prohibited.
- 5-10-280 Seminude Dancing Agencies.
- 5-10-290 Performers--Prohibited Activities.
- 5-10-300 Nudity--Defenses to Prosecution.
- 5-10-310 Existing Businesses--Compliance Time Limits.
- 5-10-320 Violation--Injunction When.
- 5-10-330 Violation--License Suspension or Revocation.
- 5-10-340 Effect of License Revocation.
- 5-10-350 Appeal Procedures.
- 5-10-360 Violation--Penalty- -Responsibility.

5-10-010 TITLE FOR CITATION.

The provision codified in this chapter shall be known and may be referred to as the sexually oriented business and employee licensing ordinance. (Ord. 17.28.94 (part), 1994)

5-10-020 PURPOSE OF PROVISIONS.

It is the purpose and object of this chapter that the City of Enterprise establishes reasonable and uniform regulations governing the time, place, and manner of operation of sexually oriented businesses and their employees in the City of Enterprise. This chapter shall be construed to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. (Ord. 17.28.94 (part), 1994)

5-10-030 APPLICATION OF PROVISIONS.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

This chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually oriented businesses, and certain employees of those businesses characterized as sexually oriented business employees. Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances, including, but not limited to, those codified in Title 5 of this code. (Ord. 17.28.94 (part), 1994)

5-10-040 DEFINITIONS.

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

"Adult bookstore" or "adult video store" means a commercial establishment:

1. Which excludes minors from more than fifteen percent of the retail floor or shelf space of the premises; or
2. Which, as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals, or other printed matter; or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations, the central theme of which depicts or describes specified sexual activities, except for legitimate medically recognized contraceptives.

"Adult business" means an adult motion picture theater, adult bookstore, or adult video store.

"Adult motion picture theater" means a commercial establishment which:

1. Excludes minors from the showing of two consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition); or
2. As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of specified sexual activities or specified anatomical areas.

"Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which:

1. Holds itself out as such a business; or
2. Excludes minors from the showing of two consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or
3. As its principal business, features persons who appear in live performances in a state of semi nudity or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

"Employ" means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

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

"Escort service" means an individual or entity that, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

"Escort service runner" means any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort, or patron by contacting or meeting with escort services, escorts, or patrons at any location within the City, whether or not such third person is employed by such escort service, escort patron, or by another business, or is an independent contractor or self-employed.

"Nudity" means a state of dress in which the areola of the female breast, or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of semi nude.

"Operator" means the manager or other natural person principally in charge of a sexually oriented business.

"Outcall services" means services of a type performed by a sexually oriented business employee outside of the premises of the licensed sexually oriented business; including but not limited to escorts, models, dancers and other similar employees.

"Patron" means any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this chapter.

"Pecuniary compensation" means any commission, fee, salary, tip, gratuity, hire, profit, reward, or any other form of consideration.

"Person" means any person, unincorporated association, corporation, partnership, or other legal entity.

"Semi nude" means a state of dress in which opaque clothing covers no more than the areola of the female breast; and the male or female genitals, pubic region, and anus shall be fully covered by an opaque covering no narrower than four inches wide in the front and five inches wide in the back, which shall not taper to less than one inch wide at the narrowest point.

"Semi nude dancing agency" means any person, agency, firm, corporation, partnership, or any other entity or individual which furnishes, books, or otherwise engages or offers to furnish, book, or otherwise engage the service of a professional dancer licensed pursuant to this chapter for performance or appearance at a business licensed for adult theaters.

"Semi nude entertainment business" means a business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi nudity. A business shall also be presumed to be a seminude entertainment business if the business holds itself out as such a business.

"Sexually oriented business" means seminude entertainment businesses, sexually oriented outcall services, adult businesses, and seminude dancing agencies, as defined by this chapter.

"Sexually oriented business employees" means those employees who work on the premise of a sexually oriented business in activities related to the sexually oriented portion of the business. This includes all managing employees, dancers, escorts, models, and other similar employees, whether or not hired as employees, agents, or as independent contractors. Employees shall not include individuals whose work is unrelated to the sexually oriented portion of the business, such as janitors, bookkeepers, and similar employees. Sexually oriented business employees shall not include cooks, serving persons, and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this chapter, including escorts, models, guards, escort runners, drivers, chauffeurs, and other similar employees, shall be considered sexually oriented business employees.

"Specified anatomical areas" means the human male or female pubic area or anus with less than a full opaque covering, or the human female breast below a point immediately above the top of the areola, with less than full opaque covering.

"Specified sexual activities" means:

1. Acts of:
 - a. Masturbation,
 - b. Human sexual intercourse,
 - c. Sexual copulation between a person and a beast,

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- d. Fellatio,
 - e. Cunnilingus,
 - f. Bestiality,
 - g. Pederasty,
 - h. Buggery, or
 - i. Any anal copulation between a human male and another human male, human female, or beast;
2. Manipulation, caressing or fondling by any person of:
 - a. The genitals of a human,
 - b. The pubic area of a human,
 - c. The breast or breasts of a human female;
 3. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed. (Ord. 17.28.94 (part), 1994)

5-10-050 OBSCENITY--STATUTORY PROVISIONS.

Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable federal or state statutes prohibiting obscenity. (Ord. 17.28.94 (part), 1994)

5-10-060 LOCATION AND ZONING RESTRICTIONS.

It is unlawful for any sexually oriented business to do business at any location with the City of Enterprise not zoned for such business. Sexually oriented businesses licensed as adult businesses or semi nude entertainment businesses pursuant to this chapter shall only be allowed in areas zoned for their use pursuant to Title 17.32 of this code. (Ord. 17.28.94 (part), 1994)

5-10-070 BUSINESS LICENSE REQUIRED.

It is unlawful for any person to operate a sexually oriented business, as specified herein, without first obtaining a general business license and a sexually oriented business license. The sexually oriented business license shall specify the type of business for which it is obtained. (Ord. 17.28.94 (part), 1994)

5-10-080 EXEMPTIONS FROM LICENSE REQUIREMENTS.

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the state for activities in the classroom. (Ord. 17.28.94 (part), 1994)

5-10-090 LEGITIMATE ARTISTIC MODELING.

- A. The City does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar state protections. The City does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling. Notwithstanding the provisions of Title 5, a licensed outcall employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least twenty-four hours before the nude appearance. All of the other applicable provisions of this chapter shall still apply to such nude appearance.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- B. In the event of a contract for nude modeling or appearances signed more than forty-eight hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this chapter. During such unlicensed nude appearance, it is unlawful to:
1. Appear nude or semi nude in the presence of persons under the age of eighteen;
 2. Allow, offer, or agree to any touching of the contracting party or other person by the individual appearing nude;
 3. Allow, offer, or agree to commit prostitution, solicitation of a minor, or committing activities harmful to a minor;
 4. Allow, offer, commit, or agree to any sex act as validly defined by City ordinances or state statute;
 5. Allow, offer, agree, or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;
 6. Allow, offer, or agree for the individual appearing nude to be within five feet of any other person while performing or while nude or semi nude. (Ord. 17.28.94 (part), 1994)

5-10-100 BUSINESS CATEGORIES--NUMBER OF LICENSES.

- A. It is unlawful for any business premises to operate or be licensed for more than one category of sexually oriented business, except that a business may have a license for both outcall services and a semi nude dancing agency on the same premises.
- B. The categories of sexually oriented businesses are:
1. Outcall services;
 2. Adult businesses;
 3. Semi nude entertainment businesses;
 4. Semi nude dancing agency. (Ord. 17.28.94 (part), 1994)

5-10-110 EMPLOYEE LICENSES.

It is unlawful for any sexually oriented business to employ or for any individual to be employed by a sexually oriented business in the capacity of a sexually oriented business employee, unless that employee first obtains a sexually oriented business employee license. (Ord. 17.28.94 (part), 1994)

5-10-120 LICENSE--APPLICATION--DISCLOSURES REQUIRED.

Before any applicant may be licensed to operate a sexually oriented business or as a sexually oriented business employee pursuant to this chapter, the applicant shall submit on a form to be supplied by the City license authority, the following:

- A. The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name;
- B. If the applicant is a corporation, partnership, or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director, and any shareholder (corporate or personal) of more than ten percent of the stock of an applicant. Any holding company, or any entity holding more than ten percent of an applicant shall be considered an applicant for purposes of disclosure under this chapter; The shareholder disclosure requirements above shall only be applicable for outcall service licenses;
- C. All corporations, partnerships, or non-corporate entities included on the application shall also identify each individual authorized by the corporation, partnership, or non-corporate entity to sign the checks for such corporation, partnership, or non-corporate entity;

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- D. For all applicants or individuals, 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;
- E. Acceptable written proof that any individual is at least eighteen years of age;
- F. Attached to the form, as provided above, two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the sheriff's department. For persons not residing in the City, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;
- G. For any individual applicant required to obtain a sexually oriented business employee license as an escort or a seminude entertainer, a certificate from the Washington County health department, stating that the individual has within thirty days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases;
- H. A statement of the business, occupation, or employment history of the applicant for three years immediately preceding the date of the filing of the application;
- I. A statement detailing the license or permit history of the applicant for the five-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;
- J. All criminal convictions or pleas of "nolo contendere," except those which have been expunged, and the disposition of all such arrests for the applicant, individual, or other entity subject to disclosure under this chapter, for five 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 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 a sexually oriented business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of "nolo contendere" for the purposes of any proceeding involving the business or employee license;
- K. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address, and phone number of the

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

- L. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations, or employment guidelines under or by which the business intends to operate. This description shall also include:
1. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity,
 2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities,
 3. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this chapter or other statutes or ordinances,
 4. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the commission of acts of prostitution or other criminal activity. It is unlawful to knowingly submit false or materially misleading information on or with a sexually oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually oriented business or employee license. (Ord. 17.28.94 (part), 1994)

5-10-130 LICENSE--FEES.

Each applicant for a sexually oriented business or employee license shall be required to pay regulatory license fees as set forth in the consolidated fee schedule. An application is not complete until all appropriate fees have been paid. (Ord. 17.28.94 (part), 1994)

5-10-140 LICENSE--BOND.

Each application for a sexually oriented business license shall post, with the City's business and economic services administrator, a cash or corporate surety bond payable to Enterprise City in the amount of two thousand dollars. Any fines assessed against the business, officers, or managers for violations of City ordinances shall be taken from this bond if not paid in cash within ten days after notice of the fine, unless an appeal is filed as provided by this chapter. In the event the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars within fifteen days of the date of notice of any draw against it. (Ord. 17.28.94 (part), 1994)

5-10-150 LICENSE--PREMISES LOCATION AND NAME.

- A. It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.
- B. It is unlawful for any sexually oriented business to do business in the City under any name other than the business name specified in the application. (Ord. 17.28.94 (part), 1994)

5-10-160 LICENSE--ISSUANCE CONDITIONS.

The business and economic services administrator shall approve the issuance of a license to the applicant within thirty days after receipt of a completed application, unless the official finds one or more of the following:

- A. The applicant is under eighteen years of age.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- B. The applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business.
- C. The applicant has falsely answered a material question or request for information as authorized by this chapter.
- D. The applicant has violated a provision of this chapter or similar provisions found in statutes or ordinances from any jurisdiction within two years immediately preceding the application; a criminal conviction for a violation of a provision of this chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation.
- E. The premises to be used for the business have been disapproved by the Washington County health department, the fire department, the sheriff's department, the building officials, or the zoning officials as not being in compliance with applicable laws and ordinances of the City. If any of the foregoing reviewing agencies cannot complete their review within the thirty-day approval or denial period, the agency or department may obtain from the City business license clerk an extension of time of no more than fifteen days for their review. The total time for the City to approve or deny a license shall not exceed forty-five days from the receipt of a completed application and payment of all fees. Businesses located outside of the corporate boundaries of the City, but requiring a license under this chapter, may be denied a license pursuant to this chapter if the business does not have a valid business license to, conduct business at the business location from the appropriate jurisdiction for that location.
 - 1. Upon receipt of an application, all departments required to review the application shall determine within seven days whether or not the application is incomplete in items needed for processing. Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete.
 - 2. The time for processing applications specified in this section shall begin to run from the receipt of a complete application.
 - 3. In the event that a license for seminude entertainment, seminude dancing agencies, adult businesses, or seminude entertainment businesses has not been disapproved within the thirty days or the forty-five days allowed after an extension, the City shall issue the license pending completion of the City's review.
 - 4. Any license issued pursuant to subsection (E) (3) of this section may be revoked by the City, pursuant to the revocation procedures provided for herein, if the completed review determines that the license should have been denied.
- F. The required license fees have not been paid.
- G. All applicable sales and use taxes have not been paid.
- H. An applicant for the proposed business is in violation of or not in compliance with this chapter or similar provisions found in statutes or ordinances from any jurisdiction.
- I. An applicant has been convicted of or pled "nolo contendere" to a crime:
 - 1. Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution, or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; harboring a runaway child; criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- a. Less than two years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five years if the convictions are of two or more misdemeanors within the five years, or
 - b. Less than five years have elapsed from the date of conviction, if the offense is of a felony;
2. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section. (Ord. 17.28.94 (part), 1994)

5-10-170 LICENSE--TERM.

Sexually oriented business and employee licenses issued pursuant to this chapter shall be valid from the date of issuance through July 1st of each succeeding year. The license fees required under the consolidated fee schedule shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for. (Ord. 17.28.94 (part), 1994)

5-10-180 LICENSE--NOTICE OF CHANGE OF INFORMATION.

Any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business employee license shall be given, in writing, to the business license clerk and the sheriff's department within fourteen days after such change. (Ord. 17.28.94 (part), 1994)

5-10-190 LICENSE--TRANSFER LIMITATIONS.

Sexually oriented business licenses granted under this chapter shall not be transferable. It is unlawful for a license held by an individual to be transferred. It is unlawful for a license held by a corporation, partnership, or other non-corporate entity to transfer any part in excess of ten percent thereof, without filing a new application and obtaining prior City approval. If any transfer of the controlling interest in a business license occurs, the license is immediately null and void, and the business shall not operate until a separate new license has been properly issued by the City as provided in this chapter. (Ord. 17.28.94 (part), 1994)

5-10-200 LICENSE--DISPLAY.

It is unlawful for any sexually oriented business location within the boundaries of the City to fail to display the license granted pursuant to this chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the City, their employee license on their person. If the individual is nude, such license shall be visibly displayed within the same room the employee is performing. When requested by sheriffs or deputies, City licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the City. (Ord. 17.28.94 (part), 1994)

5-10-210 LICENSE--STATEMENT IN ADVERTISEMENTS.

It is unlawful for any advertisement by the sexually oriented business or employee to fail to state that the business or employee is licensed by the City, and shall include the City of Enterprise license number. (Ord. 17.28.94 (part), 1994)

5-10-220 REGULATIONS AND UNLAWFUL ACTIVITIES.

It is unlawful for any sexually oriented business or sexually oriented business employee to:

- A. Allow persons under the age of eighteen years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- B. Allow, offer, or agree to conduct any outcall business with persons under the age of eighteen years;
- C. Allow, offer, or agree to allow any alcohol to be stored, used, or consumed on or in the licensed premises;
- D. Allow the outside door to the premises to be locked while any customer is in the premises;
- E. Allow, offer, or agree to gamble on the licensed premises;
- F. Allow, offer, or agree to any sexually oriented business employee touching or being touched by any patron or customer except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited;
- G. Allow, offer, or agree to illegal possession, use, sale, or distribution of controlled substances on the licensed premises;
- H. Allow sexually oriented business employees to possess, use, sell, or distribute controlled substances while engaged in the activities of the business;
- I. Allow, offer, or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering, or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;
- J. Allow, offer, commit, or agree to any specified sexual activity as validly defined by City ordinances or state statute in the presence of any customer or patron;
- K. Allow, offer, or agree to any outcall employee appearing before any customer or patron in a state of nudity;
- L. Allow, offer, or agree to allow a patron or customer to masturbate in the presence of the sexually oriented business employee or on the premises of a sexually oriented business. (Ord. 17.28.94 (part), 1994)

5-10-230 OUTCALL SERVICES--OPERATION REQUIREMENTS.

It is unlawful for any business or employee providing outcall services contracted for in the City to fail to comply with the following requirements:

- A. All businesses licensed to provide outcall services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed; the length of time such services shall be performed, the total amount such services shall cost the patron and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this section for a period not less than one year from the date of provision of services hereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract, and pecuniary compensation paid.
- B. All outcall businesses licensed pursuant to this chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during hour's outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For outcall businesses which premises are licensed within the corporate limits of the City, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the service, nor shall patrons meet outcall employees at the business premises.
- C. Outcall services shall not advertise in such a manner that would lead a reasonable prudent person to conclude that specified sexual activities would be performed by the outcall employee.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- D. All employees of outcall services who provide outcall services within the City shall be licensed in accordance with this chapter, regardless of the primary location of the business. (Ord. 17.28.94 (part), 1994)

5-10-240 ADULT BUSINESS--DESIGN OF PREMISES.

- A. In addition to the general requirements of disclosure for a sexually oriented business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the license. The design and construction, prior to granting a license or opening for business, shall conform to the following:
1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 2. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being allowed in the restroom per stall, and only one person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas.
 3. For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.
 4. The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures, and rating for illumination capacity.
- B. It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station in subsection A of this section remain unobstructed by any doors, walls, merchandise, display racks, or any other materials at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- C. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises. (Ord. 17.28.94 (part), 1994)

5-10-250 SEMI NUDE ENTERTAINMENT BUSINESS--DESIGN OF PREMISES.

- A. It is unlawful for business premises licensed for seminude entertainment to:
1. Permit a bed, sofa, mattress, or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater such items may be on the stage as part of a performance;
 2. Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors, and restroom doors to be lockable from the inside;
 3. Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet high and six inches

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.

- B. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high. (Ord. 17.28.94 (part), 1994)

5-10-260 SEMI NUDE ENTERTAINMENT BUSINESS--LOCATION RESTRICTION.

It is unlawful for any business licensed for seminude entertainment to be located within three hundred thirty feet of a business licensed for the sale or consumption of alcohol. (Ord. 17.28.94 (part), 1994)

5-10-270 ALCOHOL PROHIBITED.

- A. It is unlawful for any business licensed pursuant to this chapter to allow the sale, storage, supply, or consumption of alcoholic beverages on the premises.
- B. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually oriented business. (Ord. 17.28.94 (part), 1994)

5-10-280 SEMI NUDE DANCING AGENCIES.

- A. It is unlawful for any individual or entity to furnish, book, or otherwise engage the services of a professional dancer, model, or performer to appear in a state of semi nudity for pecuniary compensation in or for any seminude entertainment business or adult theater licensed pursuant to this chapter, unless such agency is licensed pursuant to this chapter.
- B. It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this chapter, unless such person is licensed pursuant to this chapter. (Ord. 17.28.94 (part), 1994)

5-10-290 PERFORMERS--PROHIBITED ACTIVITIES.

It is unlawful for any professional dancer, model, or performer, while performing in any business licensed pursuant to this chapter, to:

- A. Touch in any manner any other person;
- B. Throw any object or clothing off the stage area;
- C. Accept any money, drink, or any other object directly from any person; or
- D. Allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or
- E. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity. (Ord. 17.28.94 (part), 1994)

5-10-300 NUDITY--DEFENSES TO PROSECUTION.

It is a defense to prosecution or violation under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

- A. By a proprietary school licensed by the state, or a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (Ord. 17.28.94 (part), 1994)

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

5-10-310 EXISTING BUSINESSES--COMPLIANCE TIME LIMITS.

- A. The provisions of this chapter shall be applicable to all persons and businesses described herein, whether the herein-described activities were established before or after the effective date of the provisions codified in this chapter and regardless of whether such persons and businesses are currently licensed to do business in the City.
1. All such persons and businesses requiring outcall service licenses shall have forty-five days from the effective date of the ordinance codified in this chapter, or until their current license expires, whichever is first in time, to comply with the provisions of this chapter.
 2. All seminude dancing agency licenses shall have seventy-five days from the effective date of the ordinance codified in this chapter, or until their license must be renewed, whichever is first, to comply with the provisions of this chapter.
 3. All adult businesses and seminude entertainment businesses shall have one hundred thirty-five days from the effective date of the ordinance codified in this chapter, or until their current license must be renewed, whichever is first, to comply with the provisions of this chapter.
- B. For the year 1994-95, all businesses required by this chapter to be licensed as sexually oriented businesses shall be credited against the fees required in the consolidated fee schedule with the regulatory license fees paid for the current 1994-95 license. (Ord. 17.28.94 (part), 1994)

5-10-320 VIOLATION--INJUNCTION WHEN.

An entity or individual who operates or causes a sexually oriented business to be operated without a valid license, or who employs or is employed as an employee of a sexually oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this chapter is subject to a suit for injunction in addition to the civil and criminal violations provided herein, and any other remedy available at law or in equity. (Ord. 17.28.94 (part), 1994)

5-10-330 VIOLATION--LICENSE SUSPENSION OR REVOCATION.

- A. The City may issue a notice suspending or revoking sexually oriented business or employee license granted under this chapter if a licensee or an employee of the licensee has:
1. Violated or is not in compliance with this
 2. Refused to allow any inspection of the premises of the sexually oriented business specifically authorized by this chapter or by any other statute or ordinance;
 3. Failed to replenish the cost bond as provided in this chapter (such a suspension shall extend until the bond has been replenished);
 4. Given materially false or misleading information in obtaining the license;
 5. Knowingly operated the sexually oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
 6. Has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed;
 7. On two or more occasions within a twelve-month period, a person or persons committed in or on, or solicited for on the licensed premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed, of the sexually oriented business at the time the offenses were committed;
 8. A licensee is delinquent in payment to the City for ad valorem taxes, or sales taxes related to the sexually oriented business.

Enterprise Municipal Code
Title 5– Business Taxes, Licenses and Regulations
Chapters 5-01 to 5-10

- B. Suspension or revocation shall take effect within fifteen days of the issuance of notice, unless an appeal is filed as provided by this chapter.
- C. The fact that a conviction is being appealed shall have no effect on the revocation of the license. (Ord. 17.28.94 (part), 1994)

5-10-340 EFFECT OF LICENSE REVOCATION.

When a license issued pursuant to this chapter is revoked, the revocation shall continue for one year from its effective date, and the licensee shall not be issued a sexually oriented business or employee license for one year from the date of such revocation. (Ord. 17.28.94 (part), 1994)

5-10-350 APPEAL PROCEDURES.

The denial, suspension, or revocation of any license issued pursuant to this chapter may be appealed as set forth in Sections 5-10-080 through 5-10-090 of this code. (Ord. 17.28.94 (part), 1994)

5-10-360 VIOLATION--PENALTY--RESPONSIBILITY.

- A. In addition to revocation or suspension of a license, as provided in this chapter, each violation of this chapter shall, upon citation by the City license clerk, require the licensee to pay a civil penalty in the amount of five hundred dollars. Such fines shall be deducted from the cost bond posted pursuant to this chapter, unless paid within ten days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this chapter, the violation of any provision of this chapter shall be a Class B misdemeanor. Each day of a violation shall be considered a separate offense.
- B. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the sexually oriented business licensee and/or operator, if such act or omission occurs either with the authorization, knowledge, or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, and the sexually oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
- C. A sexually oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended, or renewed. (Ord. 17.28.94 (part), 1994)