

## CHAPTER 23

### BUSINESS REGULATIONS AND LICENSES

SECTION 23-1	General Provisions
SECTION 23-2	Purpose
SECTION 23-3	Definitions
SECTION 23-4	Regulation as Applied
SECTION 23-4(A)	Compliance Required
SECTION 23-4(B)	Special Sales
SECTION 23-4(C)	Responsibility for Obtaining License
SECTION 23-4(D)	Separate License for Branch Establishments
SECTION 23-4(E)	Joint License
SECTION 23-4(F)	No License Required when Solely for Resale
SECTION 23-4(G)	Exemptions
SECTION 23-5	City License Officer; Powers and Duties
SECTION 23-6	Procedure for Issuance of License
SECTION 23-7	Determination of License Fee
SECTION 23-7(A)	General Business License Fee
SECTION 23-7(B)	Term of License; Payment of License Fees
SECTION 23-7(C)	Adjustment of Fee; Pro Rated Fees
SECTION 23-7(D)	Rebate of Fee
SECTION 23-7(E)	Late Penalties
SECTION 23-7(F)	License Fee Additional
SECTION 23-7(G)	Board of Equalization
SECTION 23-7(H)	Small Overpayments
SECTION 23-8	Contents of License
SECTION 23-9	Regulation of Specified Businesses; Required License and Fees
SECTION 23-9(A)	Pawn Brokers, Swap Meets, Second-Hand Dealers
SECTION 23-9(B)	Amusement Devices
SECTION 23-9(C)	Billboard Advertising
SECTION 23-9(D)	Dance Hall
SECTION 23-9(E)	Itinerant Merchandising of Goods or Services
SECTION 23-9(F)	Junk Dealers and Junk Yards
SECTION 23-9(G)	Fireworks
SECTION 23-9(H)	Auctioneers
SECTION 23-9(I)	Produce Peddlers
SECTION 23-9(J)	Special Events, Exhibitions, Concerts and Performances
SECTION 23-9(K)	Alarms
SECTION 23-9(L)	Christmas Tree Sales Lots
SECTION 23-9(M)	Horse Drawn Carriage Operations
SECTION 23-9(N)	Restaurants
SECTION 23-9(O)	Ice Cream Vehicle Operations
SECTION 23-9(P)	Retail Tobacco Specialty Businesses
SECTION 23-9(Q)	Residential Short-Term Rentals

SECTION 23-10	Rental Dwelling License
SECTION 23-11	Liquor Set-Up License
SECTION 23-12	Beer Licenses
SECTION 23-12(A)	Definitions
SECTION 23-12(B)	Unlawful to Sell Beer Without a License
SECTION 23-12(C)	Retail License Privileges
SECTION 23-12(D)	Fees
SECTION 23-12(E)	Application
SECTION 23-12(F)	Qualifications of Licensee
SECTION 23-12(G)	Additional Licenses
SECTION 23-12(H)	Transfer of License Prohibited
SECTION 23-12(I)	Restrictions
SECTION 23-12(J)	Beer Handler's Permit
SECTION 23-12(K)	Denial of License or Permit
SECTION 23-12(L)	License Suspension and Revocation
SECTION 23-12(M)	Wholesale License
SECTION 23-12(N)	Late Penalty
SECTION 23-12-A	Single Event Permits
SECTION 23-12-A(A)	Council's Power to Grant Permits
SECTION 23-12-A(B)	Application Requirements
SECTION 23-12-A(C)	Qualifications
SECTION 23-12-A(D)	Operational Restrictions
SECTION 23-13	Treatment Facilities
SECTION 23-14	Duties of Licensees, Permittees, and Applicants
SECTION 23-14(A)	General Standards of Conduct
SECTION 23-14(B)	Display of License or Permit
SECTION 23-14(C)	Unlawful Possession
SECTION 23-14(D)	New Location Desired
SECTION 23-14(E)	Keep Records
SECTION 23-15	Transfer of License or Permit
SECTION 23-16	Non-Established Businesses; Non-Residents
SECTION 23-17	Undue Burden on Interstate Commerce
SECTION 23-18	Enforcement
SECTION 23-18(A)	Inspections
SECTION 23-18(B)	Provisional Order
SECTION 23-18(C)	Final Order
SECTION 23-18(D)	Summary Action
SECTION 23-18(E)	Effect of Denial, Suspension or Revocation; Waiting Period
SECTION 23-18(F)	Liability of Violator
SECTION 23-19	Penalty
SECTION 23-20	Constructive Notice of Time Periods
SECTION 23-21	Severability
SECTION 23-22	Business License Exemption
SECTION 23-23	Ordinances Repealed

## CHAPTER 23

### BUSINESS REGULATIONS AND LICENSES

#### SECTION 23-1. General Provisions

The provisions of this Chapter shall govern all businesses and rental dwellings within the municipal limits of Cedar City, Utah, and shall regulate all business and rental dwelling licenses and permits required and granted by Cedar City, including beer licenses and permits.

#### SECTION 23-2. Purpose.

This Chapter is designed for the regulation of business activities, raising revenue therefrom, promoting the safety, health and prosperity, improving morals, peace, good order, comfort and convenience of the citizens of Cedar City, Utah.

#### SECTION 23-3. Definitions.

For purposes of this Chapter, the following words and phrases shall have the following meaning:

(A) Business: Includes all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, whether full-time or part-time, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premise within this City or anywhere within its jurisdiction.

(B) Business Operated Occasionally: will be determined by City Staff after looking at the business's size, frequency, duration, visibility and seasonality of the proposed business.

(C) City: Cedar City, Utah.

(D) City License Officer: City Recorder of Cedar City.

(E) Employee: Any operator, owner or manager of a business; any person or persons employed by an operator, owner or manager in the operation of a place of business in any capacity, whether part-time or full-time; any sales persons or agents; or, at the Senior Business's election, any qualified independent contractors engaged in the furtherance of a business activity in any capacity, regardless of the method of compensation. As used herein, the term "employee" is intended to include all owners whether there is only one or more than one.

(F) Home-based Business: involves a Business as defined under 23-3(A) which is operated out of a person's primary residence.

(G) License: Certificate or document issued by the City evidencing permission or authority from the City to the holder named to carry on a particular business or to pursue a particular occupation.

(H) Licensee: Person to whom a license has been issued pursuant to the provisions of this Chapter, including individual persons, partnerships, joint ventures, associations, clubs, trusts, corporations or any other entities qualified by law to carry on any business referred to herein. The term "person" as used herein shall include all of the above, and shall be either an applicant or licensee.

(I) Number of Employees: The average number of employees engaging in the furtherance of the licensee's business from a base within the City during a regular working week of the preceding calendar year, or in the case of a new business, said number shall be based upon the applicant's sworn statement of the expected number of employees for the license period pursuant to this Section. In computing such number, the following shall apply:

(1) Owners shall be counted like all other employees according to the hours each owner works; however, the total calculation for all owners, calculated separately from other employees, shall not be less than one employee;

(2) Each employee designated as a full-time employee by licensee's business for tax, insurance, or benefits purposes shall be calculated as one employee regardless of the actual hours worked;

(3) Each employee working an average of thirty-two (32) hours or more per week shall be counted as one employee if not already accounted for under Subsection (2); and

(4) All employees not counted above, including part-time, seasonal, or temporary, shall be counted by the following calculation: the total average weekly hours of all part-time, seasonal, and temporary employees divided by forty (40), with the quotient being rounded to the nearest half employee.

(J) Offsite Impact: includes but is not limited to the cumulative effect of light, noise, traffic, dust, and street use that the home-based business has on the primary residential use and surrounding neighborhood.

(K) Premises: All lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or otherwise used in connection with any such business conducted on such premises.

(L) Qualified Independent Contractor: Any independent contractor that conducts ninety percent (90%) or more of his/her work and services through a Senior Business.

(M) Senior Business: A business that utilizes the work and services of at least one qualified independent contractor.

THIS SECTION AMENDED BY CEDAR CITY ORDINANCE NO. 0628-17-2.

**SECTION 23-4. Regulation as Applied.**

(A) Compliance Required. It shall be unlawful for any person, either directly or indirectly, to conduct any business or non-profit enterprise, or to use in connection therewith any vehicle, premises, machine or device in whole or in part for which a license is required by any law or ordinance of this City without a license first being procured and kept in effect at all such times as required by law.

(B) Special Sales. This Ordinance shall apply to all business in the nature of special sales for which a license is required by any law or ordinance of this City, and it shall be unlawful for any person either directly or indirectly to conduct any such sale except in conformity with the provisions of this Chapter.

(1) One act constitutes doing business. For the purpose of this Chapter, any person shall be deemed to be in business or engaging in non-profit business and thus subject to the requirements of Subsections A and B of this Section when any of the following are done.

- (a) Providing any goods or services for consideration;
- (b) Soliciting business or offering goods or services for sale or hire; or
- (c) Acquiring or using any vehicle or any premises in the City for business purposes.

(C) Responsibility for Obtaining License. It shall be the responsibility of the person engaging in business within the City to voluntarily apply and maintain in full force and effect a valid license. The agents or other representatives of non-residents who are doing business in the City shall be personally responsible for compliance by their principals and the businesses they represent with the terms of this Chapter.

(D) Separate License for Branch Establishments. A license shall be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in, as if each branch establishment or location were a separate business, provided that warehouses and distributing 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 or branch establishments.

(E) Joint License. A person engaged in two or more businesses at the same location shall obtain separate licenses for conducting each of such businesses, but when such businesses are complementary a single license may be issued which shall specify on its face all such businesses operated at that location.

- (1) A person is engaged in two or more businesses at the same location if the person has or should have registered under State law more than one DBA

(Doing Business As), corporation, limited liability company, or limited partnership with the State of Utah for the activities conducted at that location.

- (2) Two or more businesses may be deemed complementary only if the businesses have the same owner(s) and only if the applicant requests a joint license at the time of application or renewal.
- (3) A fee for each separate business specified on the face of such license shall be required to the same extent as would be required if a separate license was obtained for each business.
- (4) No joint license shall include licenses for beer, liquor set-ups, dance, and amusement devices.
- (5) A Senior Business licensed with the City may choose to treat its qualified independent contractors as employees of the Senior Business, listing each of the independent contractors' businesses that meet the ninety percent (90%) requirement. If a Senior Business chooses not to treat its qualified independent contractors as employees, it shall inform its qualified independent contractors of that decision and instruct them to obtain a separate business license. No Senior Business shall offer products or services through a qualified independent contractor that the Senior Business knows is not licensed through this Chapter.

(F) No License Required when Solely for Resale. No license shall be required for any solicitor or salesman who solicits, obtains orders for or sells goods in the City solely for resale and maintains no premise in the City in connection therewith.

(G) Exemptions. Exemptions to this Chapter are as follows:

(1) A business license fee shall not be imposed on any person engaged in business solely for religious, charitable eleemosynary or any other types of strictly non-profit purpose which is tax exempt in such activities under the laws of the United States and the State of Utah, nor shall any business license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah. Any business exempt from paying the license fee as provided in this Section shall still comply with all other requirements of this Chapter, including the application for and obtaining a license and/or permit.

(2) Any business having gross sales of less than two thousand dollars (\$2,000.00) per year shall be deemed exempt from business license fees upon a request for exemption and sufficient evidence of gross sales. Any business exempt from paying the license fee as provided in this Section,

shall still comply with all other requirements of this Chapter, including the application for and obtaining a license and/or permit.

### **SECTION 23-5. City License Officer; Powers and Duties.**

(A) Issue Licenses. The City License Officer shall issue licenses in the name of the City to all persons qualified under the provisions of this Chapter upon payment to the City Treasurer of all license fees required hereunder.

All information furnished to or secured by the City License Officer under the authority of this Chapter shall be kept in accordance with State and local law governing the accumulation, handling and dissemination of such documents and information, and those charged with administration of this Chapter may release the names, address and nature of said business upon request. The City License Officer shall have the power to:

- (1) Adopt forms. Adopt all forms and prescribe the information required therein as to all matters relevant to the issuance of a license.
- (2) Investigate. Investigate and determine the eligibility of any applicant or licensee, either at the time of issuance of a license or at any reasonable time after its issuance, in such manner as may be reasonable and necessary for the proper administration and enforcement of this Chapter. The Chief of Police, the Fire Marshall, their authorized Officers and Deputies, the Building Inspector, the Wastewater Treatment Coordinator and the City Attorney are authorized and declared to be Ex-Officio License Deputies, and are hereby authorized to examine all places of business subject to this Chapter to see that such businesses are carried on or transacted in accordance with this law, and to report to the City License Officer any violation.
- (3) Inspection of Premises and Records. Inspect prospective or existing places of businesses to insure compliance with building, safety and health code, and inspect books and records of any applicant or licensee to determine the number of employees, or any other information reasonably necessary to the administration and enforcement of this Chapter, provided that all such inspections shall be at reasonable times and upon proper advance notice to the applicant or licensee. The License Officer shall utilize the deputies referred to in Sub-paragraph 2 above for the purpose of the inspections.
- (4) Give Notice. Notify any applicant of the acceptance or rejection of their application, and in the event of rejection, at the applicant's request, state in writing the reasons therefore and deliver it to the applicant.
- (5) Request Enforcement. Request the City Attorney to file an action against any applicant or licensee who conducts a business without a license required by this Chapter.

(6) Good Standing of Applicant or Licensee. Determine that the applicant or licensee is not in default under the provision of any City Ordinance, or indebted or obligated in any manner to the City or the utilities operated by it; determine that they are not in violation of any City zoning regulation by reason of the condition of business premises or the use to be made thereof. A favorable determination of the applicant's standing in light of these factors shall be a condition precedent to issuance of a license under this Chapter, but shall not bind the City to that determination if conditions change or the License Officer's determination is found to be in error.

### **SECTION 23-6. Procedure for Issuance of License.**

#### (A) Formal Application Required.

- (1) Form of Application. A written statement shall be submitted upon forms provided by the City License Officer; each form shall include a statement regarding the truthfulness of the information provided and/or potential consequences for providing false information.
- (2) Contents of Application. Require the disclosure of all information which the City License Officer shall find to be reasonably necessary to the fair administration of this Chapter, including but not limited to the business name; description of the proposed business; mailing address; business telephone; owner's name, resident address, phone number, date of birth, and social security number; state tax number if applicable, federal tax number if applicable, state contractor's number if applicable, proof that the business is state and/or federally licensed and registered, and complies with all applicable state and federal laws, signature of applicant or applicant's authorized agent provided under penalty of law that all information contained in the application is true, and such other information as the City License Officer shall deem reasonable and necessary to determine the fee amount or if the applicant's business will place additional burdens on City services, utilities, or the provision of public safety.
- (3) Payment of Fees. Payment in full of fees chargeable for such license.

(B) Issuance of Receipt. Whenever a license cannot be issued at the time application for the same is made, the City Treasurer shall issue a receipt for the money paid in advance, subject to the following condition:

- (1) Construction. Such receipt shall not be construed as approval by the License Officer for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the



provisions of this Chapter, except as allowed under the following Subsection (2).

(2) Temporary License. Unless the receipt or documentation provided with the receipt states otherwise, such receipt shall act as a temporary, 30-day license to conduct the business for which the applicant has applied. If the License Officer has not issued a license to the applicant by the end of the 30-day period or the License Officer informs the applicant at any time that the application has been denied, the applicant must immediately cease to operate the business within the boundaries of the City until the License Officer issues a license for that business.

(C) Due Date for Applications. All applications for renewals shall be made in writing and submitted to the City License Officer on or before January 1 of each year on forms as set forth herein; the fee payment in full shall accompany the annual application. Unless otherwise notified by the licensee, the City License Officer is entitled to presume the continued operation of any business licensed in the preceding year.

(D) Duplicate License Procedure. A duplicate license shall be issued by the License Officer to replace any license previously issued which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the licensee upon the filing by the licensee of a new application and paying to the License Officer a replacement fee of \$5.00.

(E) Approval of Application. In the event the City shall approve an application for a license, such approval shall be endorsed on the license and signed by the Mayor and the City Recorder, who shall forthwith issue a license certificate.

(F) Non-Approval of License. The License Officer shall, upon disapproving any application submitted under the provisions of this Chapter, refund all fees paid in advance to the applicant, provided the applicant is not otherwise indebted to the City, in which case, the City may apply the fee to any such delinquent account.

(G) Renewal License Procedure. An applicant for renewal of a license shall submit an application for renewal to the City License Officer on such form as the License Officer may direct.

(1) Contents. The renewal application shall require the disclosure of such information concerning the operation of the applicant's business during the preceding licensing period and any expected changes during the coming or current licensing period as is reasonably necessary to the determination by the License Officer of the applicant's eligibility for a renewal license, of a possible adjustment in the license fee, or of any additional burdens on City services, utilities, or the provision of public safety.

(H) Appeal.

(1) Filing Appeal. After denial of an application, denial of a renewal application, or suspension or revocation of any license or permit, or

application of the fee to a delinquent account, an applicant, licensee, or permittee may appeal said decision to the City Manager. Any appeal must be submitted in writing to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.

- (2) Decision by City Manager. The City Manager shall issue a decision within fifteen (15) days of receiving the appeal, unless an extension of time is agreed upon by the parties. The decision complained of shall be reversed by the City Manager if upon review of the written appeal and information submitted, the City Manager finds that the License Officer or other City official made a material mistake of law or fact in making the complained of decision.
- (3) Appeal to Council. After ruling on an appeal by the City Manager, any aggrieved party may appeal said decision to the City Council. Any appeal must be submitted in writing to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of, and the grounds for appeal.
- (4) Decision by Council. The City Council shall issue a decision within thirty (30) days of receiving the appeal, unless an extension of time is agreed upon by the parties. The decision complained of shall be reversed by the City Council if upon review of the written appeal and information submitted, the City Council finds that the License Officer or other City official made a material mistake of law or fact in making the complained of decision.
- (5) Exhaustion. After the ruling of the City Council, the complaining party is deemed to have exhausted all administrative remedies.
- (6) Compliance pending legal action. When the issuance or renewal of a license or permit is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which a license or permit was refused unless a license or permit be issued pursuant to a judgment ordering the same.

#### **SECTION 23-7. Determination of License Fee.**

Every person engaged in business within the City shall pay an annual license fee as required by ordinance unless specifically exempt by law. Subparagraph (A) of this Section shall apply to all businesses except for those specifically covered in the subsequent Sections of this Chapter, in which case the fee for such license shall be determined in accordance with the specific Section pertaining to that business.

(A) General Business License Fee.

(1) Effective January 1, 2008, the amount of the business license fee levied and imposed shall be the base license fee imposed under Subsection (2)(a), plus:

a. The disproportionate impact fee imposed under subsection (3); and

b. The enhance service fee imposed under subsection (4); if applicable.

(2) The base license fee levied and imposed, covering licensing, inspection, related administrative costs and cost of special regulation, as applicable, is as follows:

a. For general businesses: \$30.00

(3) Disproportionate Costs.

a. It is hereby determined by the City Council that a disproportionate level of municipal services are provided to commercial entities within the City in comparison with those levels of services provided to residences within the City, based on the disproportionate use of police and fire services and the additional costs associated with increased usage of public facilities by employees.

b. The “per employee” fee determined to be related to the disproportionate costs of such municipal services is \$13 per employee.

c. The total Business License fee shall not exceed \$1,000 per business, excluding late fees.

(4) Enhanced Services. It is hereby determined by the City Council that the businesses and residential rental units within the Downtown Parking Authority are receiving services at a level which exceeds other geographic areas of the City. A per-business cost for such service is hereby assessed for stall rental and stall maintenance fee.

a. The stall rental fee is determined by computing, according to City Ordinance, the number of stalls required by ordinance for a particular business or rental as modified by the Downtown Parking Authority, and deducting the number of stalls already owned by

the business or rental. If the business requires more stalls than it owns, it must lease available stalls through the City at the rate adopted by the Downtown Parking Authority Board.

- b. The stall maintenance fee is used for crack sealing, resealing the parking lot, snow removal, re-striping, landscape maintenance, and the like. Each business pays a proportionate share based upon the number of stalls required by its business.
- c. The stall rental and stall maintenance fee shall be prorated based on the number of months or partial months of the calendar year remaining from the date the business commenced or from the date the premises were first rented or offered for rent. Any partial month shall be charged as a full month for the purpose of the prorated fee.
- d. Unless there is evidence to the contrary, when the City discovers, between January 1st and June 30th, a business or rental that is or has been unlicensed or has not paid the stall rental and maintenance fees, the City shall presume that the business or rental commenced on January 1st of the same year.
- e. Unless there is evidence to the contrary, when the City discovers, between July 1st and December 31st, a business or rental that is or has been unlicensed or has not paid the stall rental and maintenance fees, the City shall presume that the business or rental commenced on July 1st of the same year.

(B) Term of License; Payment of License Fees. All license fees provided for in this Chapter shall be payable annually in advance and shall be effective up and until January 1st of the succeeding year, unless otherwise specifically provided. The licensing term for Liquor Set-Up Licenses and Beer Licenses, but not Beer Handler's Permits shall be as follows:

- (1) For licenses issued for the term beginning July 1, 2007, the licensing term shall expire on January 1, 2008. The fee for these licenses shall be one-half (1/2) the current annual licensing fee for these licenses.
- (2) Beginning January 1, 2008, all Liquor Set-Up Licenses and Beer Licenses shall expire on January 1st of the succeeding year.

(C) Adjustment of Fee; Pro Rated Fees. The License Officer shall:

- (1) Change in License Status. Require the payment of an additional or higher licensee fee to be pro-rated for the balance of the license period when a licensee changes status under this Chapter by increasing the number of employees. No rebate or refund of all or part of a license fee shall be

given, even for a reduction in the licensee's employees, except pursuant to Subparagraph (D) of this Section.

- (2) Date of Issuance. Any application for a license pursuant to this Chapter filed subsequent to July 1st of any year shall authorize a pro-rated fee to the licensee at one half (1/2) the annual license fee set forth herein, except as otherwise indicated in this Chapter.

(D) Rebate of Fee.

- (1) General Prohibition. Except as herein provided, no rebate or refund of any license fee or part thereof shall be made by reason of non-use of such license or by reason of a change of location or any business rendering the use of such license ineffective.
- (2) Authority in Special Cases. The License Officer shall have the authority to refund a license fee or pro rate a portion thereof where:
  - (a) The license fee was collected through error;
  - (b) The licensee has been prevented from enjoying the full license privilege due to death or incapacity;
  - (c) The licensee has entered into the armed services and thereby rendered unable to conduct business;
  - (d) The licensed business is subject to eminent domain; or
  - (e) The licensed business is destroyed by fire or other casualty through no fault of licensee.
- (3) Basis of Rebate. A rebate as provided herein shall be based upon the number of days in the license period that the licensee was unable to conduct business for any of the reasons in Subsection (2) of this Paragraph (D), based upon a 365-day year.

(E) Late Penalties. Any license fee due on January 1st that is paid later than January 15th of any license year shall be considered to be late, and a late penalty of fifty percent (50%) of the amount of the fee shall be added to the original amount due. If the fee is still not paid by February 15th of each year, the business shall be considered to be operating without a business license in violation of this Chapter, subject to criminal prosecution for every day of operation after February 15th. For any license fee due on January 1st that is paid later than February 15th, the original fee, not including the previously imposed fifty percent (50%) late penalty, shall be doubled.

THIS SECTION AMENDED BY CEDAR CITY ORDINANCE NO. 0426-17-4.

(F) License Fee Additional. The license fee herein provided for shall be in addition to any and all licenses and taxes imposed by any other ordinance, statute, or rule of the City, State, or federal governments.

- (1) Except as provided by Subsection (2), in any case where the State of Utah requires a business or an employee to be licensed, the obtaining of such license is a prerequisite to receiving a license under this Chapter.
- (2) In the case of any State license requiring consent by the City through a City-issued license before the State license may be issued, the lack of such State license shall not prevent the issuance of a City license. The licensee shall not conduct the business authorized by the City-issued license until the licensee has provided proof to the City that the State license has been issued.

(G) Board of Equalization. The City Council is hereby constituted a Board of Equalization for the equalization of license rate. Said Board shall have the authority to examine fees and to hear complaints regarding license assessments and to make changes in assessments which the Board deems to be illegal, unequal or unjust, provided however that any corrections made by the Board shall be accompanied with findings of fact and the same shall be entered in the record of license assessment kept by the License Officer.

(H) Small Overpayments. Overpayments of fifteen dollars (\$15) or less shall not be immediately refunded unless requested in person before or in writing to the License Officer, and such small overpayments shall be treated as follows:

- (1) Each small overpayment shall be kept as a credit for subsequent renewal fees until such small overpayment is transferred to the State pursuant to the Utah Unclaimed Property Act, Title 67, Chapter 4a, Utah Code Annotated, 1953 as amended.
- (2) Notice of the credit for small overpayments shall be provided as follows:
  - (a) If an annual renewal notice is sent to the licensee or permittee, a notice of the small overpayment shall be provided with or on the annual renewal notice; and
  - (b) If the small overpayment is not repaid or applied to a renewal fee as allowed by Subsection (3) below, a notice shall be provided as required by Section 67-4a-301, Utah Code Annotated, 1953 as amended, but such notice shall not be required if the License Officer knows the last-provided address is inaccurate, undeliverable, or outdated.
- (3) One year and one day following the discovery by the License Officer of a small overpayment, the small overpayment shall be deemed abandoned for purposes of the Utah Unclaimed Property Act, Title 67, Chapter 4a, Utah Code Annotated, 1953 as amended, unless one of the following occurs by March 31st of the calendar year after the overpayment is deemed abandoned:

(a) The licensee or permittee requests in person before or in writing to the License Officer that a refund be issued for the overpayment; or

(b) The licensee or permittee renews his or her license or permit, in which case the small overpayment shall be applied towards the renewal fee. The License Officer shall subtract the credit from the renewal fee before applying any payment submitted for the renewal fee. Any resulting small overpayment shall constitute a new small overpayment for purposes of this Subsection (H).

### **SECTION 23-8. Contents of License.**

(A) Information. Each license issued hereunder shall state upon its face the following:

- (1) The name of the licensee and any other name under which such business is to be conducted.
- (2) The type and address of each business so licensed.
- (3) The date of issuance and expiration thereof.
- (4) Such other information as the License Officer shall determine.

### **SECTION 23-9. Regulation of Specific Businesses; Required License and Fees.**

All businesses specifically set forth in the following Subsections shall pay the fee required therein in lieu of the general license required in Section 23-7 above, unless otherwise set forth therein.

(A) Pawn Brokers, Swap Meets, Second-Hand Dealers. Pawn brokers, swap meet operators, and dealers in second-hand merchandise shall pay the general license fee required by Section 23-7 above.

Any person engaged in the business of lending money upon deposit or pledge of personal property or other thing of value, other than securities and printed evidence of indebtedness, or in the business of purchasing personal property or things of value or selling or agreeing to sell the same back to the seller at a price higher than the original purchase price, or who deals in second-hand merchandise, or who operates a swap meet where booths or areas are leased out to peddlers or individuals wishing to sell items of personal property, either new or used, shall be aware of all merchandise purchased, received, sold or otherwise, forming a part of the business transacted on the premises, and shall comply with the requirements of State law, including Sections 11-6-1, 13-32a-101 through 13-32a-114, 13-32-101 through 107, and 76-6-408, Utah Code Annotated, 1953 as amended, to insure that no stolen merchandise is the object of any transaction.

Swap meet operators shall keep a complete record of names, residences and driver's license numbers of each person selling or displaying merchandise.

All pawn brokers shall keep a complete ledger containing all information required by Sections 13-32a-104 and 76-6-408, Utah Code Annotated, 1953 as amended, including an account of each and every transaction concerning both the pledging and redeeming of articles, and setting forth the transaction date, name, address and the driver's license number of the pledger, a description of the goods, including serial number if any, the amount of money loaned or paid therefore, and the number of the pawn ticket. A copy of said record shall be provided to the City Police Department weekly.

No person shall be granted a pawn broker's license unless they are over the age of 21 years and a citizen of the United States, nor anyone who has been convicted of a felony or a crime involving moral turpitude within the previous ten-year period.

(B) Amusement Devices. Any machine, device, electronic mechanism or other contrivance which is legal under the laws of the State of Utah and Cedar City, designed or intended to be operated or used for amusement in response to the payment of some charge or insertion of a coin or other object, shall be licensed under the general license fee required by Section 23-7 above. A separate license shall not be required for each machine, device, mechanism or other contrivance, but a separate license shall be required for each separate location where one or more is located for commercial use, if the amusement device is intended to remain or does remain at that location for one week or more during the license year.

(C) Billboard Advertising. Every person engaged in the business of supplying space for hire for outdoor advertisement shall pay a license fee of fifty dollars (\$50.00) annually, together with a twenty-five dollar (\$25.00) annual fee for each billboard owned or operated within Cedar City, Utah, with a maximum fee of four hundred dollars (\$400.00).

(D) Dance Hall. A public dance hall is any public space open to public patronage in which a public dance is held and for which there is a charge for admission. A license fee for a public dance shall be one hundred dollars (\$100.00) per year, or any part thereof, in addition to any other license fee charged. No license is required for dances conducted by schools, whether public or private, if admission is generally limited to students and alumni and their guests.

(E) Itinerant Merchandising of Goods or Services. Transient or itinerant merchant includes any person whether as owner, agent, consignee or employee, whether a resident of Cedar City or not, who engages in the business of selling and delivering of goods, wares and merchandise within Cedar City on a temporary basis, and who in furtherance of such business hires, leases, uses or occupies any approved building structure, public room in hotels or motels, lodging houses, apartments, shops or other approved structure or location within Cedar City, for the exhibition and sale of such goods, merchandise, wares or services. Temporary structures will be permitted subject to the following conditions:

1. The structure is located by written permission of the underlying property owner; and
2. Any issues relating to health, safety and welfare (i.e. trash receptacles, restrooms) are in compliance as required by the City Code Enforcement Officer.

Itinerant businesses of any type including merchants, operators of closing-out sales, hawkers, tradesman, repairman, home improvement contractors, or any others who are deemed



by the City License Officer to be transients by reason of the period of time in which they intend to engage in such business in the City, shall pay the license fee of:

- (1) Day Permit Fee \$25.00
- (2) Week (7 day) Permit Fee \$ 50.00
- (3) Fourteen-day Permit Fee \$ 75.00
- (4) Three-Month Business License Fee \$150.00

In addition to the above schedule, they shall pay a license fee of \$23.00 for each employee beyond the first employed in said business. Day, week and fourteen-day permits for a total of fourteen days may be issued during any calendar year. Thereafter, a three-month business license must be purchased if a licensee continues operation.

All other requirements of this Chapter shall be applicable.

Any person who the License Officer deems to be an itinerant merchant by reason of transience shall provide upon request of the License Officer at the time of application information relative to type and location of previous business experience, moral character and reputation, felony or misdemeanor convictions if any, and such information as may be reasonably required. In addition, the License Officer may require applicants to demonstrate origin of goods through bills of sale, purchase receipts or otherwise.

The applicant shall supply a statement of the nature of the services, goods or merchandise and examples of coupon books or discount cards for those intending to sell coupons or discount cards. The applicant must produce, at the time of application, a site plan of the location where the business shall be conducted, and either a letter of permission or a copy of a lease agreement from the owner of the property where such business shall be conducted.

(F) Junk Dealers and Junk Yards. Every person buying or selling junk, or any person who maintains or operates a junk yard within Cedar City shall pay a license fee of \$150.00 per year. Anyone who maintains a lot for purposes of storing used metal material, wood material, cement material, rock, plastic material, auto bodies or parts thereof, or refuse material of any kind for the purpose of reselling all or any part thereof to the public shall be considered to be a junk dealer or operator of a junk yard.

Any person engaged in buying or selling junk or any person who maintains or operates a junk yard shall keep a record which shall contain all information required by Section 76-10-907, Utah Code Annotated, as amended, including a description of every article they purchase, including serial number if available, the name, age and residence of the vendor, the amount paid, and the date of purchase. Said record shall at all times be open to inspection by City Police Department and by any City official.

(G) Fireworks. Every person engaged in the business of offering fireworks for sale as allowed by Section 18-2 of City Ordinance shall be required to pay a business license fee in the amount of \$200.00

(H) Auctioneers. The fee for an auctioneer's license shall be \$100.00 per year or \$25.00 per day.

For the purpose of this Subsection, an auctioneer is a person who conducts a public competitive sale of property to the highest bona fide bidder, and an auction house is defined as a place where personal property is sold at auction by an auctioneer. The provisions of this Subsection shall not apply to auctions held for charitable purpose, church affair, festival or bazaar, the sale of animals or farm produce, judicial sales, sales by executors or administrators, or sales by the Sheriff or constable.

Before any sale is made at auction, the licensee must attach to each article to be sold which has a retail value of \$5.00 or more a card with an identifying number endorsed thereon, and each licensee shall maintain a list of all articles sold at auction for a retail price of \$5.00 or more, giving any identifying numbers or marks which may be on the articles, indicating opposite the description of each article whether it is new or used, showing the identifying number assigned to the article, the name and address of the purchaser, and the date of sale. The licensee shall keep said list for a period of one year following the date of sale.

Each licensee shall at the time of selling an article at public auction give the purchaser a receipt which shall contain the name of licensee, date of sale, description of article sold and identifying number assigned to the article.

No person shall act in any sale by auction as a "booster" to bid on behalf of the auctioneer or owner, except as specifically allowed by Utah law, or to run up the price of the articles to be sold or make any false bids. The licensee, or if a corporation, one of the officers of the licensee, shall remain in continuous attendance during the auction. All persons participating in sales must correctly represent at all times to the public the facts with respect to the quality of the merchandise being sold.

It shall be the duty of the licensed auctioneer to receive all articles which may be offered for sale at auction and give receipts therefore. At the close of any sale, the auctioneer shall deliver a fair account of such sales and pay the amount received for such articles to the person entitled thereto.

(I) Produce Peddlers. The fee for a permit for a farm peddler to carry on the business of peddling shall be in accordance with Section 23-7 above.

For the purpose of this Subsection, a produce peddler is defined as any person who goes from place to place to solicit for the sale of or offers to sell or exchange for retail at a single location in Cedar City any garden or farm produce, fruit, butter, or eggs, or any person keeping produce, goods, wares or merchandise of the kind described herein in a private residence and/or soliciting trades therefore in person, by agent or by telephone.

Nothing in this Subsection shall be construed to permit the peddling of fresh or cured meat or fish, and the peddling of the same is hereby prohibited. The provisions of this Subsection shall not apply to persons peddling or offering for sale at their residence or farm any butter, eggs, fruit, vegetables or poultry raised or produced by such persons.

Peddlers are hereby prohibited from displaying their wares outside of their vehicle on public streets and sidewalks within Cedar City.

(J) Special Events, Exhibitions, Concerts and Performances. Any individuals or groups putting on performances, exhibitions, concerts or other entertainment activities, fairs, or displays for which a fee may or may not be charged either to the public or to the hiring entity, including but not limited to musical aggregations, circuses, carnivals, rodeos, fight promoters, racing promoters, demolition derbies, live shows and entertainers of any kind shall obtain a license.

All individuals or groups coming under this Subsection shall obtain a license for each particular event during which they present a public performance, concert, exhibition, fair, live show, or entertainer.

Should the licensee provide for the opportunity for other sub-licensees to participate in the activity by way of contracting, encouraging, or requesting the participation of sub-licensees who will be conducting business related activities, a permit must be submitted for each sub-licensee and a fee of \$5.00 for each sub-licensee shall be submitted with the application and payment of the license for this special event activity. Should the licensee promoting this event be exempt from paying a business license fee, this Section in no way relieves the licensee of the obligation to comply with all other terms in this Chapter.

The fees shall be as follows:

(1) Exhibitions and Performances:

For Exhibitions and performances, the license fee shall be \$50.00 for each 24-hour period during which such performance or exhibition is presented.

(2) Carnival, Circus or Parts Thereof:

(a) The license fee for any type of carnival or circus shall be \$300.00 for each day's performance.

(b) The license fee for operating mechanical or animal rides shall be \$25.00 for the first week in addition to any other fees required herein. Thereafter they shall be licensed in accordance with Section 23-7.

A license pursuant to this Section shall not be issued until arrangements are made to conduct such activity on private property, unless the licensee has received express written permission to conduct such activity on public property designated for such activities, and until liability insurance acceptable to the City in accordance with AM Best Rating is provided in the sum of \$3,000,000 dollars per occurrence, \$500,000 per person, and \$250,000 for property damage, which shows on its face the condition to protect and indemnify Cedar City against any loss or liability arising from such activity.

(K) Alarms. No person shall engage in the business of selling, leasing, monitoring, maintaining, repairing, altering, replacing, removing or installing an alarm system until, in addition to complying with other requirements of this Chapter, the applicant shall provide to the License Officer verification of compliance with the Utah Construction Trades Licensing Act, Sections 58-55-101 through 58-55-604, as amended.

Both users of alarm systems and alarm companies shall comply with all guidelines established by the Department of Public Safety. False alarms are costly and dangerous because they divert Police Officers from calls which may be real emergencies; therefore, to discourage repeated false alarms, a service fee will be assessed by the City to the user of said alarm system for responding to false alarms as follows:

- (1) Three false alarms per calendar year or any portion thereof -- No Charge.
- (2) Fourth through the tenth false alarms within a calendar year will be assessed (\$50.00).
- (3) Eleventh and each subsequent false alarm within a calendar year will be assessed (\$200.00).

Each alarm system shall make an effort to have a responsible party available to meet police officers in a timely manner when an alarm has been activated.

Any violations of the provisions hereof or any regulations promulgated by the Department of Public Safety or the Construction Services Commission may result in a petition to revoke or suspend the right of an individual to maintain their business license as set forth in Sections 58-55-101 through 58-55-604, Utah Code Annotated, 1953 as amended.

(L) Christmas Tree Sales Lots. A license for operating a Christmas tree sales lot on a seasonal basis in Cedar City shall be required, at the fee of \$35.00 unless the Christmas tree lot is operated by a non-profit organization, in which event there shall be no fee for the license, however a license must be obtained.

License requirements in addition to the usual requirement. No license shall be issued to an applicant for a Christmas tree sales lot without first providing full information to the City License Officer as to the source of the Christmas trees and other merchandise to be sold. In the event any tree is to be cut or procured from within the public domain of the United States or the State of Utah, or from any private lands within or without the State of Utah, evidence, pursuant to Subsection 78-38-45(2), Utah Code Annotated, 1953 as amended, must be shown to the City License Officer of the applicant's right and authority to cut and remove such trees. Thereafter, the License Officer shall have the right to inspect the trees sold by the licensee from time to time to verify they are from the source indicated by the application, and if from public domain of the United States, or the State of Utah, that they contain the proper tag or other marking authorizing their removal from such land. An applicant for a Christmas tree sales lot license shall agree to properly and thoroughly clean the sales area following the sales, and dispose of all unsold trees, rubbish and debris in a manner satisfactory to the City License Officer.

(M) Horse Drawn Carriage Operations. Horse drawn carriage businesses, applicants or corporations shall enter into an agreement defining the conditions, terms, routes and other items specified by way of resolution adopting such agreements for operation of horse drawn carriage businesses. Such operations shall comply with the business license ordinance in addition to the agreement drafted and adopted by resolution.

(N) Restaurants. No business license shall be issued or renewed to operate a food service establishment until the establishment has been inspected and the applicant issued a valid food service establishment permit or registration as required by the Health Department. Food service establishment shall mean any fixed or mobile restaurant, coffee shop, cafeteria, cafe, grill, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial feeding establishment, private, public or non-profit organization or institution routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided to the public with or without charge.

(O) Ice Cream Vehicle Operations. For the purpose of this Subsection, an Ice Cream Vehicle is defined as a motor vehicle engaged in the curbside vending or sale of frozen and/or refrigerated desserts, confections, or novelties commonly known as ice cream, pre-packaged candies, pre-packaged snack foods, or soft drinks.

It shall be unlawful for any owner or operator of an Ice Cream Vehicle to pursue the business of Ice Cream Vehicle Operations within a one-block radius of a school building for that period of time fifteen (15) minutes prior to when the schools are in session and continuing through and until twenty (20) minutes after the school session has ended, or when student activities are in progress, or in public parks or play grounds. Owners and operators of an Ice Cream Vehicle are hereby prohibited from displaying their wares outside of their vehicle on public streets and sidewalks within Cedar City.

(P) Retail Tobacco Specialty Businesses.

1. For purposes of this ordinance the following terms shall have the following definitions:

- a. "Community location" means: (a) a public or private kindergarten, elementary, middle, junior high, or high school; (b) a licensed child-care facility or preschool; (c) a trade or technical school; (d) a church; (e) a public library; (f) a public playground; (g) a public park; (h) a youth center or other space used primarily for youth oriented activities; a public recreational facility; or a public arcade.
- a. "Tobacco Product" means: (a) any cigar, cigarette, or electronic cigarette as defined by state law; (b) a tobacco product defined under state law including chewing tobacco or any substitute for a tobacco product, including flavoring or additives to tobacco; and (c) tobacco paraphernalia as defined by state law.

2. For purposes of this ordinance the following rules shall be applied to determine if a business entity is a “retail tobacco specialty business”:

- a. A business shall be presumed to be a retail tobacco specialty business if: (i) the name of the business evidences holding oneself out as a tobacco specialty business, such as by use in the name of the business or advertising for the business of terms similar to “smoke shop” or “vape shop”, or; (ii) the allocation of floor and shelf space inside the business shows a focus on tobacco products such that forty percent (40%) or more of the floor and shelf space inside the business is devoted to the offer, display, and/or storage or tobacco products.
  - b. If a business is presumed to be a retail tobacco specialty business in accordance with the terms of this ordinance the business may either meet the terms and conditions established in paragraph three (3) of this section, or the business may rebut the presumption that it is a retail tobacco specialty business. The presumption that the business is a retail tobacco specialty business may be rebutted by providing a statement sworn to by a certified public accountant disclosing quarterly gross receipts for at least two (2) consecutive calendar quarters showing that the sale of tobacco products accounts for less than thirty-five percent (35%) of the total gross receipts for the business. The calculation of the thirty-five percent (35%) gross receipts shall be made for each location applying to have the presumption that it is a retail tobacco specialty business evaluated. If the business can successfully rebut the presumption that it is a retail tobacco specialty business it does not have to follow the conditions established in paragraph three (3) of this section.
  - c. The evaluation of a business under the terms of this section shall take place on each individual location of a business and shall be conducted upon applying for an initial business license, or for the renewal of an existing business license.
3. Conditions regulating a retail tobacco specialty business.
- a. A business entity that conducts, or intends on conducting, a retail tobacco specialty business in Cedar City shall comply with the provisions of this ordinance, pay the general business license fee established herein, and obtain a retail tobacco specialty business license.
  - b. No license for a retail tobacco specialty business may be issued if the retail tobacco specialty business is located within: (a) 1,000 feet of a community location; (b) 600 feet of another retail tobacco specialty business; (c) 600 feet of property zoned or used for residential purposes; or (d) any other requirement included in state law, except such separation restrictions found in state law relating to property zoned or used for agricultural purposes. For purposes of this ordinance the proximity

requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of: (a) the community location; (b) another retail tobacco specialty business; (c) property used or zoned residential, or; (d) other such uses or zones that may be specified in state law. Said measurement shall be made without regard to intervening structures or zoning districts.

- c. The provisions of this ordinance shall not apply to retail tobacco specialty businesses operating in Cedar City prior to May 8, 2012, if they maintain a business license without relapse or revocation, the business is not closed for more than 60 consecutive days, the business does not substantially change its operation, and the business continues to operate in accordance with federal law, state law, and city ordinance. None of the restrictions contained in paragraph three (3) of this section shall apply to a retail tobacco specialty business that was lawfully licensed in a location permitted by this ordinance prior to a change of use or zoning in property within applicable distance requirements that would otherwise prohibit the use of the already licensed retail tobacco specialty business.

**(Q). Residential Short-Term Rentals.**

- (1) Residential Short-Term Rentals Defined: excluding Bed and Breakfast facilities, the use and/or commercial use of property located in a Residential Zone (R-1, R-2-1, R-2-2, R-3-1, R-3-M, RE, RA); by any person or entity; for occupancy, rent or lease; for the purpose of receiving compensation, money, rent, or other bargained consideration; for a term of thirty (30) consecutive days or less. As an exception, Residential Short-Term Rentals are permitted in all zones for existing residential uses. Any rental that is leased out consecutively to the same tenant in excess of thirty (30) days will not constitute a residential short-term rental and will be governed by the City's rental dwelling license ordinance.
- (2) Purpose. Residential Short-term rentals are to be compatible with and not adversely impact surrounding residential uses. As an example, the use of mass transit to transport renters to a short-term rental is not compatible with surrounding residential uses.
- (3) License Required.
  - a. It is unlawful for any person to keep, conduct, operate, or maintain a short-term rental within the City without a Residential Short-Term Rental Business License. A person who owns multiple short-term rentals is not required to obtain more than one business license for the operation and maintenance of those rentals.
  - b. A Residential Short-Term Rental Business License is not transferrable between persons or structures. Any person holding such license shall give written notice within thirty (30) days to the License Officer after having transferred or otherwise

disposed of legal or equitable control of any rental licensed under this Section. Such notice of transferred interest shall be deemed a request to cancel an existing Residential Short-Term Rental Business License for such rental. No refund or rebate shall be issued for any license cancelled under this provision, except where ownership is transferred for one of the reasons listed in Subsection 23-7(D)(2). The new owner shall obtain a Residential Short-Term Rental Business License as required by this Section.

(4) License Application. An application for a Residential Short-Term Rental Business License shall conform to all applicable requirements of Section 23-6. In order to qualify for a residential short-term rental license, an application must meet all requirements outlined in Section 23-9 which shall include but not be limited to the following:

- a. the address of each building containing a residential short-term rental;
- b. proof of liability insurance for the residential short-term rental;
- c. proof of adequate parking as required by 26-V-5;
- d. lodging sales tax number;
- e. identify the number of bedrooms in the residential short-term rental;
- f. a submitted diagram identifying the number of available 9’x18’ parking stalls;
- g. the signature of the owner of the residential short-term rental(s) certifying that the owner of the rental shall collect and remit on a timely basis transient lodging taxes;
- h. the property owner must designate a local property representative’s name, address and telephone number, who shall be available for the purpose of:
  - i. responding within twenty-four (24) hours to complaints regarding the condition, operation, or conduct of occupants of the short-term rental;
  - ii. taking remedial action to resolve such complaints; and
  - iii. the name, address, and telephone contact number of the property owner and the local property representative shall be kept on file at the city.
- h. The property owner must certify that:
  - i. that the use and occupancy of the residential short-term rental(s) conforms to applicable local, state, and federal laws including all applicable building codes and safety standards;
  - ii. that the property owner or a local property representative will be available twenty-four (24) hours per day, seven days per week, for the purpose of responding within twenty-four (24) hours to complaints regarding the condition, operation or conduct of occupants of the short-term rental and that remedial action will be taken to resolve such complaints;
  - iii. that per Cedar City Ordinance 26-V-5, the property contains an adequate amount of off-street parking;
  - iv. that they understand that a renter may not use a short-term rental for a purpose not incidental to a normal residential use. At no time



- may the tenants of a short-term rental violate state and municipal law concerning nuisances, noise, and/or disturbing the peace;
- v. that they understand that they are assuming responsibility for all guests' activities; and that violations may result in fines to owner and/or guests; and/or license denial, suspension, or revocation;
  - vi. that they will use best efforts to ensure that the occupants and/or guests of the residential short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any provisions of the City's ordinances or State law, including but not limited to noise, disorderly conduct, the illegal consumption of alcohol, or the use of illegal drugs;
  - vii. that the short-term rental will not involve the use of any accessory building(s), mobile structures or yard space for activities outside of the dwelling not normally associated with residential use;
  - viii. that there is no HOA and/or CC&R's that restrict the owner from using the residence as a short-term rental;
  - ix. that each bedroom and corridor leading to a bedroom contains a smoke detector; and
  - x. that each floor contains a working carbon monoxide detector.

(5) License Procedure. Notice by the applicant shall be given to all owners of record of property zoned residential or used for a residential purpose within a 300-foot radius from the boundary of the proposed residential short-term rental. Said notice shall be sent by mail or hand-delivered to the property owners in accordance with the most current Iron County Assessment Roll. Proof of mailing and/or a certificate documenting hand delivery to property owners as required herein shall be delivered to the City Building Official. Notice shall contain language directing property owners who wish to discuss the location of the residential short-term rental to contact the City Building Official within ten (10) days of receipt of notice. The Building Official's name, address and contact number shall be listed in the notice. A short-term business license will be issued if all requirements of Chapter 23-9 are met.

(6) License Term. All licenses issued hereunder shall expire on January 1st of each year unless sooner canceled and shall be issued for one year only.

(7) License Fee. The fee for a Residential Short-Term Rental Business License shall be identified on the City's consolidated fee schedule.

(8) Restrictions on Use.

- a. A renter may not use a short-term rental for a purpose not incidental to a normal residential use. At no time may the tenants of a short-term rental violate state and municipal law concerning nuisances, noise, and/or disturbing the peace.
- b. Maximum occupancy of a residential short-term rental shall be no more than two (2) guests per bedroom plus four (4) guests per home.

(9) Signage. No outdoor advertising signs related to the rental dwelling shall be allowed on the site.

(10) Inspection. Prior to licensure the City Building Official shall conduct an onsite inspection to verify adequate off-street parking.

(11) Effect of License Issuance. The issuance of a Residential Short-Term Rental Business License shall not have the effect of changing the legal status of a rental dwelling, including, but not limited to:

- a. legalizing an illegally created dwelling unit, use, or other circumstances, or
- b. recognizing a nonconforming use, structure, or other nonconformity.

(12) Owner Certification. Owner understand that he assumes responsibility for all guests' activities; violations may result in fines to owners and/or guests; and/or licensee denial, suspension, or revocation.

(13) License Denial, Suspension, or Revocation. The City may deny, suspend, or revoke a Residential Short-Term Rental Business License for any of the following reasons:

- a. The licensee does not meet the qualifications for a license as provided under this Chapter.
- b. For nonpayment of all required fees for the Residential Short-Term Rental Business License, including late fees and inspections, when applicable.
- c. The licensee gave false or incomplete information on the licensee's application.
- d. The licensee has allowed or intends to allow the licensed premises to be occupied or operated in a manner contrary to the conditions set forth in the license, application, and this Chapter.
- e. Failure to provide the contact information, failure to keep the contact information current, and failure to respond within twenty-four (24) hours to complaints.
- f. Owner will use best efforts to ensure that the occupants and/or guests of the residential short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any provisions of the City's ordinances or State law, including but not limited to noise, disorderly conduct, the illegal consumption of alcohol, or the use of illegal drugs.

Three (3) or more citations based on any violations of any state or local law including but not limited to Chapter 23-9 within a twelve (12) month period may result in license denial, suspension, or revocation. Any decision denying, suspending or revoking a short-term rental license may be appealed to the Cedar City Manager.

(14) Safety. Cedar City acknowledges that the State of Utah restricts the City from requiring the alteration of existing residences to meet current building code and safety standards; however, the City strongly recommends that each room contain adequate ingress and egress, and that each floor contains a minimum 2A:10BC fire extinguisher. Cedar City requires that:

- a. each bedroom and corridor leading to a bedroom contains a smoke detector; and
- b. that each floor contains a working carbon monoxide detector.

THIS SECTION AMENDED BY CEDAR CITY ORDINANCE NO. 0925-13-1, 1012-16-1, 0426-17-4, 0509-18-2, 0613-18 and 0123-19-6.

### **SECTION 23-10. Rental Dwelling License.**

(A) Definitions: The following definitions are applicable to this Section:

(1) Owner Occupied.

- (a) A natural person who possesses fifty percent (50%) ownership or more in the dwelling and said dwelling is the primary residence of such person; or
- (b) A family trust created for the primary purpose of estate planning by one or more trustors who create the trust, place the dwelling in such trust, and whose primary residence is such dwelling.

(2) Property Owner. An individual, corporation, partnership, association, joint stock company, business trust, or any unincorporated organization that is the owner of a rental dwelling or has a financial interest in the rental dwelling.

(3) Rental Dwelling. A building or portion of a building that is:

- (a) used or designated for use as a residence by one or more persons; and
- (b)
  - (i) available to be rented, loaned, leased, or hired out for a period of one month or longer; or
  - (ii) arranged, designed, or built to be rented, loaned or hired out for a period of one month or longer.

(B) License Required.

- (1) It is unlawful for any person to keep, conduct, operate, or maintain a rental dwelling within the City without a Rental Dwelling Business License for such dwelling. A person who owns multiple rental dwellings is not

required to obtain more than one business license for the operation and maintenance of those rental dwellings.

- (2) A Rental Dwelling Business License is not transferrable between persons or structures. Any person holding such license shall give written notice within thirty (30) days to the License Officer after having transferred or otherwise disposed of legal or equitable control of any rental dwelling licensed under this Section. Such notice of transferred interest shall be deemed a request to cancel an existing Rental Dwelling Business License for such rental dwelling(s) and shall include the name, address, and information regarding the person(s) succeeding to the ownership or control thereof. No refund or rebate shall be issued for any license cancelled under this provision, except where ownership is transferred for one of the reasons listed in Subsection 23-7(D)(2). The new owner shall obtain a Rental Dwelling Business License as required by this Section.
- (3) A Rental Dwelling Business License shall not be required for a dwelling unit that is ordinarily owner occupied but is temporarily rented because:
  - (a) the owner is placed in a hospital, nursing home, assisted living facility, or other similar facility, or
  - (b) the owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, or voluntary service. Indefinite periods of absence from the dwelling shall not qualify for this exception.

(C) License Application. An application for a Rental Dwelling Business License shall conform to all applicable requirements of Section 23-6 and shall include the following additional information:

- (1) the address of each building containing rental dwellings which are owned, operated, or maintained by the applicant;
- (2) total number of units;
- (3) the number of bedrooms in each unit;
- (4) the occupancy status of each rental dwelling unit at the time of application;
- (5) the number of parking spaces provided on the premises; a dwelling unit in the R-2-2 and R-3-M zones rented to more than 4 unrelated persons shall have 1.30 parking stalls for each bedroom; a dwelling unit in the SHD zone rented to more than 4 unrelated persons shall have 0.75 parking stalls for each bedroom (rental dwelling units may not have more than 4 unrelated persons in any other zone);

- (6) the number of current tenants with a vehicle;
- (7) does the rental comply with the requirements of City ordinance 26-V-2;
- (8) if the owner of the rental dwelling is not a Utah resident, the name, address, and both home and business telephone numbers of a legal representative and agent who resides in the State of Utah for service of process;
- (9) the name, address, and both home and business telephone numbers of a local agent who:
  - (a) resides not more than thirty (30) miles from the rental dwelling(s), and
  - (b) is authorized to manage the rental dwelling(s);
- (10) proof of liability insurance for the rental dwellings to be licensed; and
- (11) the signature of the owner of the rental dwellings(s) certifying to the best of their knowledge and belief:
  - (a) that the use and occupancy of the rental dwelling(s) conforms to applicable local, state, and federal laws,
  - (b) that the use and occupancy of the rental dwelling shall contain no more than four (4) unrelated persons per unit,
  - (c) that per Cedar City Ordinance Chapter 26 Section V, the required parking spaces have been provided,
  - (d) that the property owner will keep and maintain all fire lanes free from unlawful parking and obstructions, and
  - (e) that the property owner will agree~~ing~~ to comply with all applicable laws and ordinances.

(D) License Procedure. A Rental Dwelling Business License shall be issued pursuant to the requirements of Section 23-6, except as modified by this Section.

(E) License Term. All licenses issued hereunder shall expire on January 1st of each year unless sooner canceled and shall be issued for one year only.

(F) License Fee. The fee for a Rental Dwelling Business License shall be forty dollars (\$40) per license.

(G) Effect of License Issuance. The issuance of a Rental Dwelling License shall not have the effect of changing the legal status of a rental dwelling, including, but not limited to:

- (1) legalizing an illegally created dwelling unit, use, or other circumstances, or
- (2) recognizing a nonconforming use, structure, or other nonconformity.

(H) License Denial, Suspension, or Revocation. The City may deny, suspend, or revoke a Rental Dwelling Business License for any of the following reasons:

- (1) The licensee does not meet the qualifications for a license as provided under this Chapter.
- (2) For nonpayment of all required fees for the Rental Dwelling Business License, including late fees and inspections, when applicable.
- (3) The licensee gave false or incomplete information on the licensee's application.
- (4) The licensee has allowed or intends to allow the licensed premises to be occupied or operated in a manner contrary to the conditions set forth in the license and this Chapter.
- (5) The rental dwelling does not comply with applicable Health Department regulations governing the premises, or any City, State, or federal law.

(I) If the property owner fails to comply with all of the conditions set forth in the license and this Chapter, Cedar City shall impose the following administrative penalties:

- (1) Upon the first violation per the calendar year, the property owner shall receive a written warning concerning the violation;
- (2) Upon the second violation per the calendar year, the property owner shall pay a civil fine of \$250;
- (3) Upon the third or subsequent violation per the calendar year, the property owner shall pay a civil fine of \$500 for each violation, and a petition may be initiated to suspend or revoke their Rental Dwelling Business License.

**AMENDED BY ORDINANCE NUMBER 0207-18 and 1113-19-6.**

### **SECTION 23-11. Liquor Set-Up License.**

(A) It shall be unlawful to operate an association, restaurant, club, or similar business that allows customers, members, guests, visitors, or other persons to possess liquor of which the seal

has been broken, or to consume alcoholic beverages on the club, association, restaurant, or similar business premises without a business license.

(B) It shall be unlawful for a licensee, operator, employee, or any other person to store, possess, or consume any liquor in or on any place of business licensed by this Section except as allowed by the Utah Alcoholic Beverage Control Act, Title 32B, Utah Code Annotated, 1953 as amended. Persons other than the licensee, operator or employee of the licensee may, with consent of the licensee possess and consume liquor on the licensed premises to the extent authorized by Subsection 32B-5-307, Utah Code Annotated, 1953 as amended.

(C) Each application for an annual license provided for by this Section shall be accompanied with a fee of \$50.00. Applications for this license shall be an affidavit and shall be sworn to by the applicant. Such affidavit shall show applicant's age, citizenship or immigration status, moral character and reputation, and any conviction of a felony or misdemeanor involving moral turpitude and list a banking reference and two character references. The applicant shall also provide a BCI background check, meaning an original or copy, dated no older than 180 days prior to the date of the application, of a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the permit applicant. If the applicant is a partnership, limited liability company, corporation, or other type of association, the same information shall be obtained with respect to each partner, member, corporate officer or director, and any other person holding a twenty percent (20%) or greater interest in the ownership in the partnership, limited liability company, corporation, or association.

(D) Each licensee must be over 21 years of age, of good moral character and lawfully present in the United States. No license shall be granted to any applicant who has been convicted of a felony or misdemeanor involving moral turpitude. If the applicant is a partnership, association or corporation, each partner, association member, corporate director or officer shall meet all of the foregoing qualifications.

(E) The Chief of Police or his designee shall make an examination of all applicants and shall make recommendations in writing as to whether said applicant shall be granted a license.

(F) No place of business governed by this Section shall permit the consumption of liquor on the premises by a person under the age of 21 years of age; nor shall any place of business permit any person on the premises under 21 years of age to have liquor in their possession. It shall be the affirmative duty of the place of business to ask the age of each and every person consuming liquor or having liquor in their possession on said premises. In the event of prosecution for allowing violation of this Section by a person under 21 years of age, said place of business shall be deemed prima facie to have allowed the consumption or possession of liquor as prohibited by this Section by a person under the age of 21, unless said place of business has on file a liquor permit identification card as set forth by State law.

THIS SECTION AMENDED BY CEDAR CITY ORDINANCE NO. 0426-17-4.

## **SECTION 23-12. Beer Licenses.**

(A) Definitions. The following words and phrases used in this Section shall have the following meaning:

- (1) Beer: as defined in the Alcoholic Beverage Control Act in the Utah State code.
- (2) Retailer: Any person engaged in sale or distribution of alcoholic beverages to the consumer.
- (3) “Sell,” “Sale,” and “To Sell”: Any transaction, exchange or barter whereby for any consideration an alcoholic beverage whether directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained; whether done by a principal, proprietor, agent, servant or employee.
- (4) Small Brewer: Any brewer who manufactures less than 60,000 barrels of beer and heavy beer per year.”
- (5) Wholesaler: Any person other than a licensed small brewer selling beer manufactured by that brewer, engaged in the importation for sale, or in the sale of beer, malt liquor or malted beverages in wholesale or jobbing quantities to retailers.

(B) Unlawful to Sell Beer Without a License. It shall be unlawful for any person to engage in the business of selling beer at retail, in bottle or draft, within the corporate limits of Cedar City without first having procured a license from the City Council as hereinafter provided. A separate license shall be required for each place of sale and a license shall at all times be conspicuously displayed. All licenses shall comply with the Alcohol Beverage Control Act of Utah and the regulations of the Alcohol Beverage Control Commission.

(C) Retail License Privileges. Retail licenses issued hereunder shall be of the following classes, and shall carry the following privileges:

- (1) **CLASS "A":** Retail License which entitles the licensee to sell beer in original containers for off-premise consumption only in accordance with the Alcohol Beverage Control Act.
- (2) **CLASS "B":** Retail License which entitles the licensee to sell beer in original containers or on draft for on premise consumption or off-premise consumption in accordance with the Alcohol Beverage Control Act.

It shall be unlawful for any person to purchase or acquire or to have or possess for the purpose of sale or distribution, any beer except that which has been lawfully purchased from a brewer or wholesaler licensed under the privileges of the Alcohol Beverages Control Act. Unless otherwise specifically stated herein, all portions of this Section apply equally to licenses, licensees, and permit holders of both CLASS “A” and CLASS “B” businesses.



(D) Fees. Applications for a license as provided for in this Section shall be accompanied by the fees hereinafter provided, which may be set from time to time by resolution of the City Council:

Class "A" Retail License -- \$150.00 per annum or any part thereof

Class "B" Retail License -- \$250.00 per annum or any part thereof

Said fee shall be non-refundable upon approval of the retail license. Prior to approval of said license, the application fee shall be refunded upon request.

(E) Application. All applications for license authorized by this Section shall be verified and filed with the City Council of Cedar City and shall state the status of the entity (i.e. partnership, corporation); the name, address, social security number, date of birth, place of residence during the previous five years, and any felony or misdemeanor conviction of the applicant and of all partners, officers, and/or directors; a statement that applicant has complied with all requirements specified under the Alcohol Beverage Control Act; any such other information as requested by the License Officer; and a sworn statement to the effect that all facts set forth in the application are true. The applicant shall also provide a BCI background check, meaning an original or copy, dated no older than 180 days prior to the date of the application, of a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the permit applicant.

(F) Qualifications of Licensee. No person shall be granted a retail beer license until they show they of are good moral character, are over the age of 21 years, lawfully present in the United States, and have not been convicted of any crime listed in Subsection 32B-1-304, Utah Code Annotated, 1953 as amended.

(G) Additional Licenses.

- (1) Except as provided by Subsection (2), no retail beer license shall be issued until the applicant has first procured all necessary licenses and permits from any State or local health board.
- (2) In the case of any State license requiring consent by the City through a City-issued license before the State license may be issued, the lack of such State license shall not prevent the issuance of a City license. The licensee shall not conduct the business authorized by the City-issued license until after the licensee has provided proof to the City that the State license has been issued.

(H) Transfer of License Prohibited. Licenses issued under this Section shall not be transferable.

(I) Restrictions. No licensee under this Section shall employ any individual under the age of 21 years of age whose primary duty is to sell alcoholic beverages. All provisions of the

Alcohol Beverage Control Act concerning age requirements for sale of alcoholic beverage must be strictly observed.

No person shall sell beer at any public dance, except if otherwise provided by ordinance. No license shall be granted to sell beer in any dance hall, except as otherwise provided by ordinance, or in the proximity of any church or school. No person shall sell beer to any person actually, apparently, or obviously intoxicated; known habitual drunkard; or known interdicted person. No person shall sell beer to any person under the age of 21 years. It shall be unlawful to sell beer, or to consume or to permit any person to consume beer on any licensed premise within Cedar City, between 1:00 a.m. and 6:00 a.m. of the same day, except as allowed by the Utah Alcoholic Beverage Control Act.

(J) Beer Handler's Permit.

- (1) Persons Required to Have Permit. All persons involved in the transaction of retail beer sales, whether CLASS "A" or CLASS "B," shall possess and display a Beer Handler's Permit while on duty. The licensees for CLASS "A" and CLASS "B" establishments shall require all of the following employees to obtain a Beer Handler's Permit from the Cedar City Police Department:
  - (a) For CLASS "A," an individual who:
    - (i) Directly supervises the sale of beer to a customer for consumption off the premises of the CLASS "A" licensee; or
    - (ii) Sells beer to a customer for consumption off the premises of the CLASS "A" licensee; and
  - (b) For CLASS "B," an individual who:
    - (i) Manages operations at the premises of the licensee engaged in the retail sale of alcoholic beverages for consumption on the premises of the licensee;
    - (ii) Supervises the serving of alcoholic beverages to a customer for consumption on the premises of the licensee; or
    - (iii) Serves alcoholic beverages to a customer for consumption on the premises of the licensee.
- (2) Application Procedure. Each person listed in Subsection (J)(1) of this Section, hereinafter "Permit Applicant," shall apply for a Beer Handler's Permit from the Cedar City Police Department as follows:

- (a) Fully and accurately complete a Beer Handler's Permit application available from the Cedar City Police Department, which shall require, among other relevant information:
  - (i) The permit applicant's name, including any aliases; home address, both street and mailing, if different; home phone number; Social Security number; and date of birth;
  - (ii) History of administrative actions, if any, against the permit applicant for a violation of any law involving the sale of an alcoholic beverage to a minor, including but not limited to warnings, suspensions, and revocations;
  - (iii) Certification that the permit applicant has not been convicted and that charges are not currently pending for any disqualifying criminal act in the State of Utah or any other state; and
  - (iv) Any other information reasonably required by the Police Department.
- (b) Provide a BCI background check. As used in this Subsection, "BCI background check" means an original or copy, dated no older than 180 days prior to the date of the application, of a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the permit applicant;
- (c) A signed copy of a waiver whereby the applicant agrees to allow the City to obtain a criminal background check, whether through BCI or otherwise, on the permit applicant for purposes of enforcement of this Chapter;
- (d) Produce acceptable photographic identification; and
- (e) Provide a certificate that the permit applicant has completed an alcohol training and education seminar required by Sections 32B-5-403 and 62A-15-401, Utah Code Annotated, 1953 as amended. If the Cedar City Police Department provides an alcohol training and education seminar that has been approved by the State of Utah, the permit applicant must provide a certificate that the permit applicant has completed the Cedar City Police Department's alcohol training and education seminar. If the Cedar City Police Department ceases to provide an approved alcohol training and education seminar, the permit applicant may provide a certificate from any State-approved alcohol training and education seminar.

- (3) New Application Deadline. All employees required to obtain a Beer Handler's Permit under Subsection (J)(1) of this Section shall apply for a Beer Handler's Permit within the deadline for completion of the alcohol training and education seminar, as provided in Subsections 32B-5-403 and 62A-15-401(2)(b).
- (4) Expiration of Beer Handler's Permits. All beer handler's permits either issued before or after the enactment of this provision are only valid for a period of three (3) years.
- (5) Renewal Application. All persons required to obtain a Beer Handler's Permit under Subsection (J)(1) of this Section shall be required to renew their Beer Handler's Permit prior to the expiration of their current permit. In order to renew a permit, the holder shall completely fill out an application for a beer handler permit with the Cedar City Police Department and pass a background check.
- (6) Licensee Reporting Requirements. A licensee shall inform the Cedar City Police Department of any employee possessing a Beer Handler's Permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages. The report shall be made within fifteen (15) days following the employee's termination.
- (7) Permit Holder Identification Badge.
  - (a) Licensees shall require each holder of a Beer Handler's Permit to wear a unique identification badge as required by Subsection 32B-7-202(6), Utah Code Annotated, 1953 as amended, while engaging in or directly supervising the retail sale of beer. A unique identification badge issued by the Cedar City Police Department with or as a Beer Handler's Permit shall be used for this purpose, unless the Cedar City Police Department ceases to provide such badges.
  - (b) Licensee shall maintain a record of all current employee's unique identification badges assigned to each such employee and make such record available for immediate inspection by any peace officer or other representative of the City as required by Subsection 32B-7-202(6), Utah Code Annotated, 1953 as amended.
  - (c) Any licensee that does not comply or require its employees to comply with this Subsection (6) shall pay a fine of \$250. Each day of non-compliance shall constitute a separate violation.

- (8) Qualification. The Police Department may not grant a permit or a renewal permit to any person who fails to meet the qualification requirements of Section 32B-1-304, Utah Code Annotated, 1953 as amended.
- (9) Licensee's Failure to Require Training. Any licensee that allows an employee to directly supervise the sale of beer or to sell beer to a customer without having a valid certificate that the sale of beer or to sell beer to a customer without having a valid certificate that the individual completed an alcohol training and education seminar as required by this Subsection (J) and State law, shall be subject to the administrative penalties provided below.
- (a) On a first offense, the licensee's license shall be immediately suspended until the later of:
- (i) A showing by the licensee that he is now in compliance with State and local law, including proof of all required certifications; or
- (ii) Ninety (90) days from the date of suspension.
- (b) On a second or subsequent offense, the licensee's license shall be immediately suspended until the later of:
- (i) A showing by the licensee that he is now in compliance with State and local law, including proof of all required certifications; and
- (ii) One (1) year from the date of suspension.
- (c) The City shall expunge from the records maintained by the City all administrative penalties imposed under this Subsection (8) for the purpose of determining future administrative penalties under this Subsection (8) if the licensee has not been found in violation of the alcohol training provisions of this Subsection (J) and State law for a period of 36 consecutive months from the day on which the licensee was last adjudicated as violating these provisions.
- (10) Violation of Law by Permit Holder.
- (a) Effect on Permittee. In addition to any criminal penalties that may be imposed, any permittee found in violation of any law involving the sale of an alcoholic beverage to a minor shall be subject to the administrative penalties provided by Subsection 32B-7-303(1)(b), Utah Code Annotated, 1953 as amended.

- (b) Effect on Licensee. In addition to any criminal penalties that may be imposed, any licensee whose employee is found in violation of any law involving the sale of an alcoholic beverage to a minor shall be subject to the administrative penalties provided by Subsection 32B-7-303(1)(b), Utah Code Annotated, 1953 as amended.

(K) Denial of License or Permit. The City reserves the right to deny any application for a license or permit hereunder, pursuant to the terms of this Chapter and State law. The City Council shall further have discretion to either grant or deny a license or permit.

(L) License Suspension and Revocation.

- (1) Permitting Minors on Premises. In addition to any criminal penalties that may be imposed, any licensee, permittee, or employee of a licensee that allows a minor on premises in violation of Section 27-9 of the Cedar City Ordinances shall be subject to the administrative penalties provided by Subsections 32b-7-303(1)(b), Utah Code Annotated, 1953 as amended. For the purpose of determining administrative penalties under this Subsection (1), violations of Section 27-9 shall be counted separately from violations of Subsection 23-12(J)(9), Utah Code Annotated, 1953 as amended.
- (2) Record Expungement. The City shall expunge from the records maintained by the City all administrative penalties imposed under Subsection (1) for the purpose of determining future administrative penalties under Subsection (1) if the licensee or permittee has not been found in violation of Section 27-9 for a period of 36 consecutive months from the day on which the licensee or permittee was last adjudicated as violating these provisions.
- (3) No Refund. No refund shall be provided for the period a license or permit is suspended or revoked under this Chapter.

(M) Wholesale License. It shall be unlawful for any person to engage in the business of selling beer at wholesale within the City without first obtaining a wholesale license from the Alcohol Beverage Control Commission of Utah. However, any such wholesaler maintaining a premise within the City in connection with their wholesale business must obtain a City business license. It shall be unlawful for any wholesaler to obtain a retail beer license.

(N) Late Penalty. Any license fee due on July 1st that is paid later than August 15th of any license year shall be considered to be late and a late penalty of fifty percent (50%) of the amount of the fee shall be added to the original amount due. If the fee is still not paid by October 1st of each year, the business shall be considered to be operating without a beer license in violation of this Chapter, subject to criminal prosecution for every day of operation after October 1st. For any license fee due on July 1st that is paid later than October 1st, the original fee, not including the previously imposed fifty percent (50%) late penalty, shall be doubled.

THIS SECTION OF CHAPTER 23 WAS AMENDED BY CEDAR CITY ORDINANCE NO. 0428-10-2, 0708-15-1, and 0426-17-4.

**SECTION 23-12-A. Single Event Permits.**

(A) Council's Power to Grant Permits.

- (1) The Council may issue a single event permit to a bonafide corporation, church, political organization, incorporated association, State agency, or Iron County, or to a recognized subordinate lodge, chapter or other local unit thereof that is conducting a convention, civic, or community enterprise.
- (2) The single event permit shall authorize, for a period not to exceed one hundred twenty (120) consecutive hours, the storage, sale, service and consumption of beer at an event at which this would otherwise be prohibited.
- (3) The Council may not issue more than four (4) single event permits in any one calendar year to the same organization.
- (4) The six hundred foot and two-hundred-foot proximity limitations to educational, religious, and recreational facilities that are applicable to state stores, package agencies, and licensees, do not apply to single event permits. Nothing in this Section however prevents the council from considering the proximity of any such facility, or any other relevant factor in deciding whether to grant a single event permit.

(B) Application Requirements.

- (1) A qualified applicant for a single event permit shall file a written application as prescribed by the City.
- (2) The application shall be accompanied by:
  - (a) a single event permit fee of fifty dollars (\$50.00) which is refundable if a permit is not granted;
  - (b) the times, dates, location, nature and purpose of the event;
  - (c) a description of the floor plan designating:
    - (i) the area in which the applicant proposes that beer be stored;
    - (ii) the site from which the applicant proposes that beer be sold or served; and

- (iii) the area in which the applicant proposes that beer be allowed to be consumed;
- (d) a statement of the purpose of the organization holding the event;
- (e) a statement that the person signing the application or an authorized agent will be present at all times during the single event to insure compliance with Subsection (d) herein;
- (f) a signed consent form stating that City Officials will have unrestricted right to enter the premises during the event for purposes of enforcement;
- (g) verification evidencing that the person signing the application is authorized to act on behalf of the association or organization; and
- (h) any other information that the City may direct.

(C) Qualifications.

- (1) In order to qualify for a single event permit, the applicant shall have been in existence as a bonafide organization for at least one year prior to the date of application:
- (2) (a) The Council may not grant a single event permit to any person who has been:
  - (i) convicted of a felony under any federal or state laws;
  - (ii) convicted of any violation of any federal or state law, or local ordinance concerning the sale, manufacturing, distribution, warehousing, adulteration, or transportation of alcoholic beverages; or
  - (iii) convicted of any crime involving moral turpitude.
  - (iv) on two or more occasions within the five years before the day on which the permit is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.
- (b) In the case of a partnership, corporation, or limited liability company the proscription under Subsection (a) applies if any partner, managing agent, officer, director, stock holder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation, or member who owns at least twenty percent (20%) of an applicant limited liability company has been convicted of any offense as provided in this Subsection.
- (c) The proscription under Subsection (2)(a) applies if any person employed to act in a supervisory or managerial capacity for the single event permittee has been convicted of any offense described in Subsection (2)(a).



- (3) Upon the arrest of any single event permittee on any charge set forth in Subsection (2), the City may take emergency action by immediately revoking the permit as permitted by law.
- (4)
  - (a) The Council may not grant a single event permit to any person or organization who has had any type of beer license, agency or permit revoked within the last three years.
  - (b) For purposes of a partnership, corporation, or limited liability company the proscription under Subsection (a) applies to any partner, managing agent, officer, director, stock holder who holds at least twenty percent (20%) of the total issued and outstanding stock of an applicant corporation, or member who owns at least twenty percent (20%) of an applicant limited liability company.
- (5) A minor may not be granted a single event permit or be employed by a single event permittee to handle alcoholic beverages, nor may the City grant a permit to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:
  - (a) a partner or managing agent of the applicant partnership;
  - (b) a managing agent, officer, director, or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation; or
  - (c) a manager or member who owns at least twenty percent (20%) of the applicant limited liability company.
- (6) The City may immediately suspend or revoke a single event permit if after the day on which the permit is granted, a person described in Subsection (2):
  - (a) is found to have been convicted of any offense described in Subsection (2)(a) prior to the permit being granted; or
  - (b) on or after the day on which the permit is granted:
    - (i) is convicted of an offense described in Subsection (2); or
    - (ii) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years following a prior conviction of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

- (7) If any person to whom a permit has been issued pursuant to this Section no longer possesses the qualifications required by this Section for obtaining a permit, the City may suspend or revoke that permit.

(D) Operational Restrictions.

- (1) Any organization granted a single event permit shall abide by this Chapter and the special conditions set forth in this Section. Failure to do so may result in immediate revocation of the permit, forfeiture of the surety bond, immediate seizure of all beer present, and disqualifies the organization from applying for a single event permit for a period of three years from the date of revocation of the permit. Any beer seized under this Subsection shall be returned to the organization after the event if forfeiture proceedings are not instituted under Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act, Utah Code Annotated, 1953 as amended.
- (2) Special conditions and requirements for single event permittees include, but are not limited to the following:
  - (a) The applicant or an authorized agent shall be present at all times during the single event to insure compliance with all requirements set forth herein.
  - (b) All persons involved in the storage, sale or service of alcoholic beverage at the event do so under the supervision and direction of the permittee.
  - (c) All beer stored, sold, served and consumed at the event shall be purchased by the permittee as required by law, and is considered under the control of permittee during the event. Attendees of the event may not bring any alcoholic beverage other than that furnished by the permittee onto the premises of the event.
  - (d) A permittee may not charge more than the maximum amount set forth in the State-issued permit for any alcoholic beverage.
  - (e) Each permittee shall post in a prominent place in the area in which beer is being sold, served, and consumed, a copy of the permit, together with a list of the operational restrictions and requirements of single event permittees set forth in this Section.
  - (f) Beer purchased for the event may not be stored in any place other than that described in the application and designated on the permit.
  - (g) Beer purchased for the event may not be sold or served in any place other than that described in the application and designated on the permit.
  - (h) Beer purchased for the event may not be consumed in any area other than that described in the application and designated on the permit.
  - (i) Beer may not be sold, served, or consumed between the hours of 1 a.m. and 10 a.m. unless a more restrictive ordinance applies.
  - (j) Beer may not be sold, served, delivered or furnished to any:

- (i) minors;
  - (ii) person actually, apparently, or obviously drunk;
  - (iii) known habitual drunkard; or
  - (iv) known interdicted person.
  - (k) Minors may not sell, serve, dispense, or handle any alcoholic beverage at the event.
  - (l) Public advertising of the event may not include reference to the availability of any alcoholic beverage at the event.
  - (m) No person involved in the sale or service of alcoholic beverages at the event may, while on duty, consume an alcoholic beverage or be intoxicated.
- (2) The permittee shall maintain an expense and revenue ledger or record showing:
    - (a) Expenditures made for alcoholic beverages; and
    - (b) The revenue from sale of alcoholic beverages.
  - (3) Single event permits are not transferrable.

THIS SECTION AMENDED BY CEDAR CITY ORDINANCE NO. 0426-17-4 and 0509-18-2.

**SECTION 23-13. Treatment Facilities.**

(1) Residential Treatment Facilities. Residential treatment facilities as defined in Chapter 26 shall be assessed business license fees as contained in Section 23-7(A). Furthermore, residential treatment facilities shall be required to provide a sworn statement when a business license is issued that they comply with the following, to wit:

A. Their facility is more than 700 feet from another residential treatment facility, a protective housing facility, transitional housing facility, assisted living facility or rehabilitation/treatment facility, a non-residential treatment facility or an elementary school.

B. That their facility complies with all provisions of the Americans with Disabilities Act.

C. That no person will remain in the facility once it is shown that their tenancy would constitute a direct threat to the health or safety of other individuals or result in substantial damage to the property of others.

D. That the facility is located in an appropriately zoned district throughout the City.

(2) Treatment Facilities, Transitional Housing, Assisted Living Facilities, and Protective Housing. Treatment facilities, transitional housing, assisted living facilities and protective housing as defined in Chapter 26 shall be assessed business license fees as contained in Section 23-7(A). Furthermore, residential treatment facilities shall be required to provide proof when a business license is issued that they comply with the following, to wit:

A. Their facility is more than 700 feet of a similar type facility, protective housing facility, transitional housing facility, rehabilitation/treatment facility, residential facility for persons with a disability a non-residential facility or residential facility for the elderly.

B. They are in compliance with all requirements of Chapter 26, Cedar City Ordinances.

(3) Non-Residential Treatment Facilities. Non-residential treatment facilities as defined in Chapter 26 shall be assessed business license fees as contained in Section 23-7(A). Furthermore, non-residential treatment facilities shall be required to comply with the following, to wit:

A. The facility be more than 700 feet from another residential treatment facility, a protective housing facility, transitional housing facility, assisted living facility or rehabilitation/treatment facility, a non-residential treatment facility or an elementary school.

B. The facility complies with the Americans with Disabilities Act.

C. The facility is located in an appropriately zoned district.

(4) Additional Requirements. In order to protect the health, safety, and welfare of the general public, staff, and customers, all Residential Treatment Facilities, Treatment Facilities, Transitional Housing, Assisted Living Facilities, Protective Housing, and Non-Residential Treatment Facilities, prior to the issuance of an original license, or a license renewal must comply with the following provisions prior to obtaining a business license, to wit:

A. The facility must provide proof that its facility has passed an inspection to insure it complies with the State and Federal Americans with Disabilities Acts. The inspection must be conducted by an inspector certified by the State of Utah to conduct the abovementioned inspections, and

B. The facility must provide proof that its facility has passed an inspection to insure that it complies with the provisions of the State and Federal Occupational Health and Safety Acts. Said inspection must be conducted by an inspector certified by the State of Utah to conduct the abovementioned inspections.

(5) Additional License Fees. When the State of Utah Department of Licensing approves a training program that will allow a City employee to become certified to inspect for State licensing compliance, the cost of the additional expense to the City shall be calculated by staff.

Once said calculations are complete, they shall be presented to the City Council for inclusion in this Section.

**SECTION 23-14. Duties of Licensees, Permittees, and Applicants.**

(A) General Standards of Conduct. Every licensee, permittee, and every applicant for a license or permit under this Chapter shall:

(1) Permit Inspection. Permit all reasonable inspections of the business and examination of the books by a public authority so authorized by law.

(2) Comply with Governing Law. Ascertain and at all times comply with all laws and regulations applicable to such business.

(3) Operate Properly. Avoid all forbidden, improper or unnecessary practices which may affect the public health, morals or welfare.

(4) Cease Business. Refrain from operating the business on premises after expiration of the license or permit or during the period when a license or permit is revoked or suspended.

(B) Display of License or Permit. Every licensee and permittee under this Chapter shall post and maintain such license or permit upon the licensed or permitted premises in a place where it may be seen at all times. The licensee or permittee shall carry such license or permit on their person when there are no licensed or permitted business premises.

(C) Unlawful Possession. A licensee or permittee shall not loan, sell, give or assign to any other person, or allow any other person to use or display, or to destroy, damage or remove, or to have in their possession, except as authorized by the License Officer or by law, any license or permit which has been issued to said licensee or permittee.

(D) New Location Desired. A licensee shall have the right to change the location of the licensed business provided the following is complied with:

(1) Approval by License Officer. Obtain written permission from the License Officer for such change of location.

(2) Payment of fee. The License Officer may endorse a change of location for any business upon approval and upon payment of a five dollar (\$5.00) service fee.

(3) Transitional license. The License Officer may grant a business license for a new, transitional location for a period of up to six (6) months in the applicant can show:

a) The business had a regular City business license at a previous Cedar City location immediately preceding the application for the license at

the transitional location; consecutive transitional licenses shall not be granted;

- b) A new, permanent location will be established and licensed within the next six (6) months;
- c) The applicant has paid a full annual business license fee as contained in Section 23-7(A); and
- d) All fire, safety, and zoning requirements are satisfied for the transitional business location.

(E) Keep Records. Keep all records and books necessary to the computation of the applicable fees and to the enforcement of this Chapter.

#### **SECTION 23-15. Transfer of License or Permit.**

No license or permit granted or issued under any of the provisions of this Chapter shall be assignable or transferable in any manner.

#### **SECTION 23-16. Non-Established Businesses; Non-Residents.**

This Chapter shall apply to persons engaged in business whether the business is conducted with or without an established place of business and shall also include those who conduct business from a hotel room, an automobile or other type of mobile unit.

This Chapter shall be applied equally to and without discrimination between resident community businesses and nonresident community businesses.

#### **SECTION 23-17. Undue Burden on Interstate Commerce.**

None of the requirements for a license or permit provided for by this Chapter shall be applied so as to occasion an undue burden on interstate commerce. In any case where a fee is levied on a licensee or permittee or applicant for license or permit, and the levy is alleged to place an undue burden upon interstate commerce, such person may make application for hearing pursuant to the provisions set forth in Section 23-7 before the Board of Equalization, and may utilize all other applicable remedies set forth herein.

#### **SECTION 23-18. Enforcement.**

(A) Inspections. All persons authorized herein to inspect licensees, permittees, and businesses shall have the authority to enter, with or without search warrant, at all reasonable times. It shall be unlawful for any person licensed or holding a permit under the provisions of this Chapter to refuse permission to an inspector of the City or any law enforcement officer to enter the licensed or permitted premises to inspect the same.

(B) Provisional Order. When an inspector has reported any violation of this Chapter or any law or ordinance, unless otherwise provided in this Chapter, the License Officer shall issue to the affected person a provisional order to comply:

- (1) Nature of Notice. The provisional order shall be in writing, shall be personally served and shall apprise the person affected of the specific violation and of the right to a hearing before the City Manager if requested within ten (10) days of service. In absence of the person affected or agent or employee, a copy of such notice shall be affixed to some structure on the business premises as personal service. Depositing such notice in United States Mail to the last-provided address shall also constitute personal service.
- (2) Period of Compliance. The provisional order shall require proof of compliance within 10 days of service on the affected person.
- (3) Hearing. Upon written application by the person affected before the expiration of the 10-day period for compliance, the License Officer shall order a hearing before the City Manager pursuant to Subsection 23-6(H) of this Chapter. Notice of such hearing shall be given to the affected person as prescribed above, but if a hearing is scheduled five (5) days or less from the date of service, service shall not be by mail.

(C) Final Order. Upon the failure or refusal of the violator to comply with the provisional order or with any order made after hearing, the License Officer shall then declare and make the provisional order final.

- (1) Authority of License Officer. The License Officer shall have the authority to suspend or revoke licenses or permits upon making and declaring a provisional order final.
- (2) Effect of Revocation or Suspension. Upon revocation or suspension, no refund of any portion of the license or permit fee shall be made to the licensee or permittee and they shall immediately cease all business under such license or permit.

(D) Summary Action. When the conduct of any licensee, permittee, agent, or employee is so inimical to the public health, safety and general welfare so as to constitute a nuisance and thus give rise to an emergency, the License Officer shall have the authority to summarily order the cessation of business and the close of premises, or to suspend or revoke the license or permit.

- (1) Special Hearing. Unless waived in writing, within 10 days after acting summarily, the License Officer shall conduct a special hearing for such action before the City Manager on the summary order; said hearing shall be treated as an appeal under Subsection 23-6(H) of this Chapter. Notice of such hearing shall be given to the affected person in the manner prescribed in Subsection (B)(3) of this Section.

(E) Effect of Denial, Suspension or Revocation; Waiting Period. No person who has been denied a license or permit, or whose license or permit has been suspended or revoked under the provisions of this Chapter, and no person associated with such person in the conduct of such business shall be granted a license or permit for the same purpose under the provisions of this Chapter for a period of six (6) months after such denial, suspension or revocation, unless otherwise specifically provided for herein. The City Council may, however, at its discretion, waive the prohibition against persons associated with an individual who has been denied a license or permit.

(F) Liability of Violator:

- (1) Unpaid fee Constitutes Debt. The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due the City.
- (2) Action by City Attorney. The City Attorney shall, at the direction of the License Officer, institute civil suit in the name of the City to recover any such unpaid fee and/or enjoin the operation of said business.
- (3) Civil Judgment No Bar. No civil judgment, or any act by the City Attorney, the License Officer or the violator shall bar criminal prosecution as set forth below for each and every violation of this Chapter.

**SECTION 23-19. Penalty.**

(A) Except as otherwise provided in this Chapter, any violations of this Chapter shall be a class B misdemeanor. Where applicable, each day of non-compliance shall constitute a separate violation.

(B) Additional Penalty for Doing Business Previously Without a License. In addition to the above, in the event that it is discovered that any person or applicant for a business license or permit has done business in the City during a previous year or years without a valid license or permit as required by this Chapter, the City shall not issue a license or permit to such person or applicant for the current year until said applicant pays to the City the license or permit fee which would have been applicable for the business during the preceding years, together with a penalty fee of \$25.00 for each year assessed.

**SECTION 23-20. Constructive Notice of Time Periods.**

(A) All businesses, owners, licensees, permittees and applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with said time periods and/or deadlines as set forth in this Chapter relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses or any other licensing or permit matters set forth in this Chapter.

(B) Nothing in this Chapter shall be construed as requiring the City to take any affirmative action to notify businesses, owners, licensees, or applicants of any time periods



and/or deadlines or the effect of non-compliance with said time periods and/or deadlines set forth in this Chapter relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, permits or any other licensing matters set forth in this Chapter.

**SECTION 23-21. Severability.**

If any section, subsection, sentence, clause, phrase or a portion of this Chapter is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 23-23. Business License Exemption**

- (A) Pursuant to State law, the City will not require a business license or permit for businesses that are operated:
  - (i) only occasionally; and
  - (ii) by an individual who is under 18 years of age.
  
- (B) Pursuant to State law, the City will not require a business license or permit for home-based business, unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.
  
- (C) A business exempt from licensure under this section may still obtain a license from the City after paying a processing fee.

THIS SECTION AMENDED BY CEDAR CITY ORDINANCE NO. 0628-17-2.

**SECTION 23-23. Ordinances Repealed.**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.