

TITLE 5. BUSINESS REGULATION TITLE OF TOOELE CITY

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CHAPTER 1. GENERAL PROVISIONS

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5-1-1. Purpose.

Pursuant to powers granted by the State of Utah as set forth in various provisions of the Utah Code Annotated, 1953, as amended, the City of Tooele, Utah, intends by this Title (1) to regulate and license businesses and occupations within its corporate limits, (2) to protect the safety and welfare of business patrons, owners, and employees, and (3) to maintain a current index of licensed businesses and occupations for economic development and other public purposes.

(Ord. 2009-16, 03-17-2010) (Ord. 1998-09, 05-06-1998) (Ord. 1983-22, 12-07-1983)

5-1-2. Definitions.

For the purposes of this Title, the following words and phrases shall have the meaning herein prescribed:

Business License Specialist: an employee of the Community Development Department tasked with business license activities under this Title.

City: The municipality of the City of Tooele, Utah.

Contractor: Any person who, for a fixed sum, price, fee percentage or other compensation, other than wages, undertakes with another to improve any building, highway, road, improvement of any kind, other than to personalty or any part thereof; provided, that the term "contractor" as used in this Title shall include any one who builds more than one (1) structure on his own property during any one (1) year for the purpose of sale and shall include subcontractor, but shall not include anyone who merely furnished materials or supplies without fabricating the same into, or consuming the same in the performance of the work of the contractor as herein defined.

Department: the Community Development Department.

Director: the Director of the Community Development Department.

Division: Business license division of the Community Development Department.

Employee: The operator, owner, or manager of a place of business; any person or person employed by an operator, owner, or manager in the operation of a place of business, whether part-time or full-time.

Engage in business or conduct business: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property, and the rendering of services to others for a consideration by persons engaged in any trade, craft, business, or occupation, including doctors, lawyers, accountants, dentists, etc., where a place of business is located within Tooele City. The act of employees rendering services to employers shall not be included in such terms unless otherwise specifically prescribed.

License and Active License: Certificate or document issued by the City evidencing permission or authority to its named holder to engage in, conduct, and carry on a particular business or to pursue a particular occupation within the City.

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

Organized event: The Tooele Arts Festival, the Festival of the Old West, and similar such events.

Permit: A written license or instrument issued by the City authorizing and empowering the grantee thereof to some act not forbidden by law but not

allowable without such authority.

Person: Any individual or natural person, receiver, assignee, trustee in bankruptcy, trust, firm, partnership, joint venture, corporation, club, company, business trust, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

Place of business: A location maintained or operated by a licensee within the City from which the licensee engages in business.

(Ord. 2019-26, 11-20-2019) (Ord. 2017-08, 02-15-2017) (Ord. 2017-02, 02-01-2017) (Ord. 2012-27, 12-05-2012) (Ord. 2009-16, 03-17-2010) (Ord. 1998-09, 05-06-1998) (Ord. 1983-22, 12-07-1983)

5-1-3. Unlawful to operate without license. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-4. Responsibility for obtaining license.

(1) It shall be the responsibility of a person engaging in business within the City to apply for, obtain, and maintain in full force and effect a valid license. The application shall be issued by the Department, and shall contain the following information: business name, business address, business mailing address and telephone number, business owner's name, applicant's home address and home telephone number; and one (1) character reference.

(2) Separate licenses shall not be required for persons who engage in business with others as a partnership or corporation legally constituted.

(3) For organized events, the organizing or sponsoring organization shall obtain the license. Individual businesses participating in the events, with the authorization of the organizing or sponsoring organization, shall not be required to obtain individual business licenses to sell products or otherwise engage in business at the events. The licensed organization shall regulate the number and type of businesses pursuant to the organization's event policies, consistent with any Tooele City policies.

(4) All independent contractors engaged in or conducting business must obtain a business license.

(Ord. 2019-26, 11-20-2019) (Ord. 2017-08, 02-15-2017) (Ord. 2017-02, 02-01-2017) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-5. Separate license required for each branch.

A separate license must be obtained for each branch established or separate place of business in which the business of a licensee is carried on. Each license shall authorize the person obtaining it to engage in, carry on, pursue, or conduct only that business described in such license and only at the location which is indicated thereon.

(Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-6. Duty to display license.

Every licensee licensed pursuant to the provision of this Title shall keep the license displayed and exhibited while the same is in force in some conspicuous part of the place of business. Every licensee not having a fixed place of business shall carry such license with him/her at all times while carrying on the business for which the license is issued and shall produce the license for inspection when requested to do so by any person. (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-7. Exemptions.

(1) Fee Exemptions. The provisions of this Title shall not be deemed or construed to require the payment of a license fee:

(a) by any institution or organization which is conducted, managed, or carried on wholly for the benefit of charitable purposes or from which profit is not derived, directly or indirectly, by any individual, firm, or for-profit corporation;

(b) for the conducting of any entertainment, concert, exhibition, or lecture on scientific, historical, literary, musical, religious, or moral subject, whenever the receipt from such is to be appropriated to any church or school or to any religious or charitable organization within the City;

(c) for the conducting of any entertainment, dance, fraternal, educational, military, state, county or municipal organization or association when the receipts from such are to be appropriated for the purposes and objects for which such association or organization is formed and from which profit is not derived, either directly or indirectly, by any individual, firm or profit corporation.

(2) License Exemption. The provisions of this Title shall not be deemed or construed to require a business license for a business that is operated:

(a) only occasionally; and,

(b) by an individual who is under 18 years of age.

(3) Where Utah statutes exempt certain businesses from local business licensing fees, such business shall not be exempt from the requirement to apply for and obtain a license.

(Ord. 2017-18, 05-17-2017) (Ord. 2009-16, 03-17-2010) (Ord. 2002-05, 04-03-2002) (Ord. 1983-22, 12-07-1983)

5-1-8. Inspections for City code compliance - Notice of noncompliance - License revocation - Complaints.

(1) New businesses. Prior to the issuance of a license to engage in a new business, or for an existing

business to conduct business at a new location, the applicant shall permit inspections to be made of the prospective place of business by the appropriate departments of the City or other governmental agency to ensure compliance with building, fire, health and other City codes, ordinances, and regulations. No license shall be granted without inspections and code compliance.

(2) Existing businesses. Existing places of business licensed within the City may be inspected periodically by departments of the City, annually upon the City's own initiative or upon the City receiving a complaint of alleged noncompliance, for compliance with building, fire, health, and other City codes, ordinances, and regulations.

(3) Notice of noncompliance. Written notice shall be given by the Department to a licensee upon the finding of any code noncompliance, which notice shall provide for a reasonable period not to exceed sixty (60) days in which to correct such noncompliance, the failure of which may result in the revocation of the license by the Department Director, the license non-renewal, or other civil and criminal penalties.

(4) Business license renewal. No business license shall be renewed where a civil, administrative, or criminal proceeding has made a finding of noncompliance with City codes, ordinances, or regulations and all appeal periods have expired. A license may be reinstated or renewed upon the cure of the noncompliance, verified by City inspection. The payment of a business license renewal fee by a noncompliant business shall not estop the City from revoking a business license, or refusing to renew a business license, due to such noncompliance.

(Ord. 2019-26, 11-20-2019) (Ord. 2014-07, 06-04-2014) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-9. Preparation, issuance, and listing of licenses.

The Department shall prepare and issue appropriate licenses for every person qualifying therefor under the provision of this Title and shall state in each license the name and address of the licensed business and the period of time for which it is issued. All licenses shall be signed by the Director or the Business Licensing Specialist. The Department shall maintain a list of all persons holding licenses and the status of each such license.

(Ord. 2019-26, 11-20-2019) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-10. License fees.

(1) There is hereby levied upon every person engaged in business within the City an annual license fee to be calculated as follows:

(a) Base Fee: \$40.00

(b) Additional Fee: \$3.00 per employee.

(2) The annual business license fee shall not exceed \$1,000.00.

(Ord. 2009-16, 03-17-2010) (Ord. 2003-31, 12-03-2003) (Ord. 1998-09, 05-06-1998) (Ord. 1983-22, 12-07-1983)

5-1-11. License additional to all regulatory licenses.

The license fees imposed by this Title shall be in addition to any and all other taxes or fees imposed by any other provisions of the Ordinances of the City of Tooele.

(Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-12. Revenue tax on business in competition with public utilities. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-13. Revenue Measure. (Repealed)

(Ord. 1998-09, 05-06-1998)

5-1-14. Fee payments.

(1) All license fees shall be paid at the Office of the Department of Finance of the City prior to the license being issued.

(2) The annual license fees provided in this Title shall be due and payable to the City at the times specified, or if not so specified, on the first day of January of each year

(3) Fees shall not be prorated.

(Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-15. Renewal billing procedure.

(1) During December of each year, the Department shall send a statement to each current licensee within the City, calling for the computation by the licensee of a license fee for the next calendar year. The statement shall notify the licensee that payment of the license fee is due no later than January 31 of the new calendar year and that a penalty will be assessed if the fee is not timely paid.

(2) Any fee remaining unpaid as of February 1 shall have added thereto a penalty in the amount of fifty percent (50%) of the total amount of the license fee due.

(3) By March 1 of each year, the Department shall send a final notice to each licensee whose annual license fee remains unpaid. The notice shall inform the licensee that if the fee and accrued penalty are not paid by March 15, the Department will place the license in an inactive status.

(4) If the fee and penalty remain unpaid after March 15, the Department shall notify the licensee by first-class mail that the license is inactive and that the licensee cannot engage in further business within the city until the licensee pays the fee and accrued penalty.

(5) The Business License Specialist is empowered to enter onto business premises during business hours of operation to make observations regarding the activity of a business whose business license has been deactivated or revoked..

(Ord. 2019-26, 11-20-2019) (Ord. 2009-16, 03-17-2010) (Ord. 2006-20, 09-06-2006) (Ord. 1998-09, 05-06-1998) (Ord. 1983-22, 12-07-1983)

5-1-16. Fee adjustment to avoid burdening interstate commerce. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-17. Exemption of insurance companies. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-18. Time periods.

The licenses shall be effective for the calendar year in which issued.

(Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-19. Mistakes in fee calculations.

In no event shall any mistakes made by an applicant, a licensee, or the Department in the calculation of a license fee prevent or prejudice the collection by the City of amounts actually due from any person subject to licensing under this Title. Likewise, no such mistakes shall prevent or prejudice the refund to licensees of amounts overpaid by the reason of mistakes.

(Ord. 2019-26, 11-20-2019) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-20. Deviations prohibited.

No greater or lesser amounts shall be charged or received for licenses and no license shall be issued for any period of time other than as specifically provided in this Title.

(Ord. 1983-22, 12-07-1983)

5-1-21. Fee for duplicate license.

The Department shall make a charge of ten dollars (\$10.00) for each duplicate license issued to replace any license issued under the provisions of this Title.

(Ord. 2019-26, 11-20-2019) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-22. Refunds.

No refund shall be made against any fee for a license issued pursuant to this Title without the written approval of the Director for good cause.

(Ord. 2019-26, 11-20-2019) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-23. License transfers.

Upon the written consent of the Business Licensing Specialist endorsed thereon, licenses issued pursuant to the provisions of this Title may be transferred from one place of business to another provided that the licensee remains the same. A transfer fee of ten dollars (\$10.00) shall be paid for each such transfer. There shall be no transfers of licenses from one person to another or from one business to another.

(Ord. 2019-26, 11-20-2019) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-24. Additional application requirements.

Other chapters of this Title may require additional license application criteria and information.

(Ord. 2023-08, 03-15-2023) (Ord. 2009-16, 03-17-2010) (Ord. 1987-24, 01-02-1988) (Ord. 1983-22, 12-07-1983)

5-1-25. Particular occupations. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-26. Bonding. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-27. Designation of agent for service of process.

(1) Each licensed business shall be registered with the State of Utah Department of Commerce, Division of Corporations, or successor division.

(2) The owner listed on the business license application shall be considered the agent for service of process or notice given pursuant to this Chapter.

(Ord. 2013-07, 04-17-2013) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-28. Revocation.

(1) The issuance of a license under this Title 5 grants a revocable property interest and privilege to engage in business. The licensee agrees, as a condition of license issuance, to operate the licensed business or activity in conformity with the ordinances of the City and all other applicable laws.

(2) Any license issued pursuant to the provisions of this Title may be revoked for one year by the Director for any of the following reasons:

(a) the violation by the licensee of any provisions in this Title;

(b) failure to pay when due any license fee, tax, charge, or penalty provided for in State statute or City ordinance;

(c) falsification of the license application or supporting documentation provided with the license application;

(d) any fraud or misrepresentation of a material fact in the procurement of the license;

(e) noncompliance with building, fire, or health codes;

(f) any conduct at the licensed premises tending to render the licensed premises, business, or activity a private or public nuisance as defined in this Code, or a menace to the health, peace, or general welfare of the City or its inhabitants;

(g) using or possessing for use a false weight or measure or any other device for falsely determining or recording any quantity or quality;

(h) selling, or offering or exposing for sale, commodities that vary from the standard of composition or quality prescribed by any statute that provides criminal penalties for:

(i) deviation from standards set by any statute;

(ii) deviation from standards set by established commercial usage; or,

(iii) deviation from legal requirements for truthfulness or disclosure in labeling as required by any statute;

(i) activities, under the guise of conducting a business, that are fraudulent, deceptive, or constituting a violation of City ordinance or other law;

(j) failure of the licensee to retain the legal qualifications necessary for the license;

(k) violation of the zoning ordinances governing the licensed business or activity, including parking ordinance requirements;

(l) conviction of a felony or any crime of moral turpitude on or related to the licensed business or activity after the issuance of a license;

(m) refusal to allow City officers or employees to make inspection of the licensed premises during the hours of 8 a.m. to 5 p.m. Monday through Friday;

(n) selling, or offering or exposing for sale, to minors any harmful material, sexually oriented material, or sexual paraphernalia, as defined in Section 11-1-10 of this Code;

(o) violation of any of the terms or conditions of a conditional use permit; and,

(p) any violation of City ordinance or other law relating to the licensed business or activity.

(3) An action or omission constituting grounds for revocation under this Section by an agent, employee, officer, operator, owner, or patron of the licensee or the licensed business or activity shall constitute the action or omission of the licensee.

(4) Notification of the Director's preliminary determination to revoke a business license shall be mailed by the Department by certified U.S. mail to the licensed business at the mailing address identified on the business license application.

(5) Notification of business license revocation shall be mailed by the Department by certified U.S. mail to the licensed business:

(a) if no timely appeal of the preliminary revocation determination was filed, at the mailing address identified on the business license application;

or,

(b) if a timely appeal of the preliminary revocation determination was filed, and the determination was sustained by the Administrative Hearing Officer, at the address identified on the appeal. (Ord. 2019-26, 11-20-2019) (Ord. 2014-01, 01-15-2014) (Ord. 2013-07, 04-17-2013) (Ord. 2012-13, 04-18-2012) (Ord. 2009-16, 03-17-2010) (Ord. 1987-24, 01-02-1988) (Ord. 1983-22, 12-07-1983)

5-1-29. Appeal of preliminary revocation determination.

Appeals of actions taken or decisions made under this Chapter shall be to the Administrative Hearing Officer.

(Ord. 2014-01, 01-15-2014) (Ord. 2013-07, 04-17-2013) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-30. Doing business after license denied or revoked. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-31. Licensing after denial or revocation. (Repealed)

(Ord. 2009-16, 03-17-2010)

5-1-32. Powers and duties of City personnel.

The business license specialist and all police officers of the City are hereby appointed inspectors of licenses and, in addition to their several duties, are authorized in the performance of their duties to examine all business places to see that such licenses are valid and that they are posted in a conspicuous place within the place of business or otherwise displayed as required. The business license specialist and all police officers shall have authority to enter, free of charge, during a business' regular business hours, any place of business for which a license is required, and to demand the exhibition of a current license by any person engaged or employed in the conduct of such business. All police officers shall have authority to issue citations and make arrests for the violation of any provisions of this Title.

(Ord. 2023-08, 03-15-2023) (Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-33. Violations and penalties.

(1) It shall be a violation of this Chapter for any person to do any of the following within the City:

(a) engage in business without first procuring a license;

(b) engage in business when a license for the business has been revoked, and the revocation appeal period has expired or an appeal has resulted in the revocation being affirmed;

(c) engage in business when a license has become inactive through the non-payment of applicable

license fees and accrued penalties; and,

(d) fail to display the license at the licensed place of business, or, if there is no fixed place of business, fail to carry the license while engaging in business.

(2) Any person violating any of the provisions of this Title shall be guilty of a class B misdemeanor and shall, upon conviction therefor, be punished by a fine in a sum not to exceed one thousand dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

(Ord. 2009-16, 03-17-2010) (Ord. 1998-09, 05-06-1998) (Ord. 1983-22, 12-07-1983)

5-1-34. Effect of conviction - Prosecution not barred.

The conviction and punishment of any person for engaging in business without a license shall not excuse or exempt such person from the payment of any license fees due or unpaid at the time of such conviction; and nothing herein shall prevent a criminal prosecution for any violation of the provisions of this Title.

(Ord. 2009-16, 03-17-2010) (Ord. 1983-22, 12-07-1983)

5-1-35. Separability clause.

If any subsection, sentence, clause, phrase or portion of this Title, including but not limited to any exemption, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The City Council of the City of Tooele hereby declares that it would have adopted this Title and each subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more subsections, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

(Ord. 1983-22, 12-07-1983)