

TITLE 9.
LICENSING, CONTROL AND
REGULATION OF BUSINESS AND
CONSTRUCTION.

CHAPTER 9-400. LICENSING
AND REGULATING SPECIFIC
BUSINESSES.

Part 9-410. Intoxicants.

9-411. Definitions. The following definitions shall apply in the interpretation of this part.

(1) "Beer" means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley malt, hops, or other ingredients not drinkable or any combination of them, which contains not less than one-half (½) of one percentum (1%) of alcohol by weight and not more than three and two-tenths percent (3.2%) Of alcohol by weight, or such other percent of alcohol by weight as may be determined to be "Light Beer" as that term is referred to in Section 32-1-3, *Utah Code Annotated 1953*, and any amendments hereafter made thereto.

(2) "Off-Sale Retailer" means any person operating a bona fide regularly established retail store selling beer, together with other commodities and engaged in the sale of beer only in the original package, to be taken away from the premises of the retailer and to be consumed off the premises.

(3) "On-Sale Retailer" means any person operating an establishment where beer is sold in the original container for consumption on or off the premises and in individual portions for consumption on the premises.

(4) "Person" includes partnership, association, company or corporation, as well as natural person.

(5) "Premises" means the area from which the license is authorized to sell, dispense, or serve beer under the provision of the license.

(6) "Sale" includes soliciting or receiving an order for, keeping or exposing for sale, delivering for value, peddling, keeping with intent to sell, and trafficking in.

9-412. License Required. It shall be unlawful for any person to engage in the business of the sale of beer in any manner within the City without first having procured a license therefore from the City Council as hereinafter provided. A separate license shall be required from each place of sale, and the license shall at all times be conspicuously displayed on the premises. It shall be unlawful for a person to consume beer in a public place, as that term is

defined in Section 32-1-3, *Utah Code Annotated 1953*, unless it shall be premises whereon an on-sale beer license is displayed. All licenses shall comply with the Liquor Control Act of Utah, the regulations of the Utah Department of Alcoholic Beverage Control (DABC), and all applicable Ordinances of the City of Tremonton.

9-413. Retail Licenses Permitted. Retail beer licenses permitted in the City of Tremonton shall either be for on sale or off sale. The license for sale of all alcoholic beverages other than beer shall be required by the Liquor Control Act of the State of Utah, Title 32, *Utah Code Annotated 1953*, the provisions of which are hereby adopted insofar as applicable to this part.

9-414. Application for License All applications for licenses to engage in the retail sales of beer shall be verified and shall be filed with the recorder/clerk. The applications must state the applicant's name in full and that he understands and has read and complied with the requirements and possesses the qualifications specified in the Alcoholic Beverage Control Act as codified in Title 32A of the Utah Code Annotated and this chapter. If the applicant is a partnership, the names and addresses of all partners and managers thereof, and if a corporation, the names and addresses of all officers, directors and shareholders owning five percent (5%) or more of the stock in the corporation, must be stated and it must be stated that all of said persons possess the same qualifications as designated in this chapter. Each application shall also state whether or not any person named therein has ever been refused a liquor or beer license at any time or had such a license suspended, revoked or not renewed, and the reasons for such action.

(1) The application must be subscribed by the applicant who shall state under oath that the facts therein contained are true and further that there are no undisclosed ownership interests as required in this section. The city may also require the disclosure of social security numbers, birth dates and other identifying data as deemed necessary to complete the background check required by this chapter.

(2) All applications shall be accompanied by a criminal history report issued by the Utah state bureau of criminal identification.

(a) Any applicant, who has not been a resident of the state of Utah for more than two (2) years prior to the date of the beer license application's submittal to the City, shall accompany said application with a criminal background history conducted by the Federal Bureau of Investigations. (Ord. No. 10-07 passed 9/7/10)

9-415. Qualifications of License.

(1) Every licensee hereunder shall be a bona fide citizen of the United States or a legal resident alien. If a partnership, each partner shall be a bona fide citizen or a legal resident alien of the United States. If a corporation, it shall be a domestic corporation or a foreign corporation which has qualified to do business in the State of Utah, and the corporation shall hold its license through an agent.

(2) A corporation which conforms to the qualifications prescribed in Subsection A, shall own the entire equitable interest in its license through an agent, provided the agent is otherwise qualified to hold a license under the provisions hereof. The agent shall be subject to the penalties prescribed for any violation of the law relating to alcoholic beverages. Upon the death or resignation or discharge of an agent of a corporation holding a license, the license shall be assigned to another qualified agent selected by the corporation.

(3) No license shall be issued to any person who, within one year prior to application, has violated any provision of a license to sell alcoholic beverages issued by the City of Tremonton or any other governmental agency within the State of Utah, or has had such a license revoked. No license shall be issued to any person who, within five years prior to application, has been convicted of a felony. No corporation shall have its annual license issued or renewed unless it has on file with the City Recorder a list of its officers and directors and stockholders who own ten percent or more of the corporation. No corporation shall have its license issued or renewed if any of its officers or directors or any stockholders who own ten percent or more of the corporation have within five years been convicted of a felony.

(4) The City Recorder shall request and receive criminal history record information from the Chief of Police within ten days after receiving such application, and the Chief of Police shall add thereto his recommendation as to the granting or denying of said application.

(5) Either the City Recorder or the City Council may require any person having an interest, direct or indirect, in any license or licensee to furnish a complete, satisfactory set of fingerprints.

9-416. Issuance and Transfer.

(1) The City Council shall issue a license for the retailing of beer only after satisfactory showing of the capability, qualifications and reliability of the applicant, and that the public convenience requires that the best interests of the community will be substantially served by the issuance.

(2) If and when a new license becomes available for sale by the City and a prospective licensee has made application therefore, the City

shall publish an invitation to apply for the same. Said invitation to applicants shall be published once a week for four successive weeks in a newspaper having general circulation in Box Elder County. Within 14 days after the date of last publication, at a public meeting, the City Recorder or the administrator of business licenses, shall choose by lot one of the qualified applicants. All applicants shall be subject to the conditions and qualifications set forth herein and must have fulfilled and met all necessary pre-requisites and qualifications no less than two days prior to the date of drawing. Each application shall be accompanied by cashier's check in the amount of the applicable license fee payable to the City of Tremonton, as and for the original issuance of the license, which check shall secure the purchase of the license if the applicant's name is drawn. Checks received from unsuccessful applicants shall be immediately returned after the drawing. If the applicant whose name is drawn fails to meet all qualifications or criteria, or for some other reason refuses to or cannot purchase the license or consent or for any other reason does not use the license or consent as contemplated with six months from the date of the drawing, then his cashier's check shall be forfeited to the City as liquidated damages. The City shall then re-offer said beer license or consent by republishing a notice inviting applications and holding another drawing. No applicant shall increase his chances in the drawing by inducing or allowing friends, relatives or others to make application for the same drawing. All such applications, including that of the bona fide applicant shall be deemed void and of no effect.

(3) A license shall be to sell beer only at the place and in the manner provided therein, and a separate license shall be issued for each specific business, each license specifying the exact location thereof and whether it is an on-sale or off-sale license.

(4) No license for the sale of beer shall be assigned, transferred or sold, except that in the sole discretion of the Council a transfer may be permitted upon a change of location where the owner remains the same, or upon a change of owner where the location remains the same. In either case, the same qualifications as to location of premises or character of licensee shall apply, and the same fees will be required as in the case of an original issuance of license. No license for the sale of beer shall be leased or subleased.

(5) A license which is not used by the licensee for a period in excess of six months shall revert to the City and shall no longer have any validity.

9-417. Licenses, Number Permitted.

(1) The total number of beer licenses issued

within the City of Tremonton for on-sale retailer's licenses providing for consumption of beer on premises not primarily dedicated to restaurant purposes shall not exceed one (1) license per 1,000 inhabitants within the City, except as provided in (2) below.

(2) The City Council has discretion to issue an on-sale retailer's license without regard to the quota set forth in subparagraph (1), if a license is engaged primarily in the operation of a restaurant. Upon application for a license under this subsection, or renewal thereof, the licensee shall submit an exact duplicate of the menu utilized by the restaurant together with a floor plan showing all seating in the restaurant and the arrangement thereof. Determination of whether an establishment is dedicated primarily to a restaurant purpose, as referred to in subsections (1) and (2) of this section, shall be made by the Mayor and City Council.

(3) The total number of beer licenses issued within the City for off-sale retailer's licenses providing for the sale of beer only in the original packages to be taken from and consumed off the premises shall not exceed one (1) license for each 1,000 inhabitants of the city, except as provided in (4) below.

(4) The City Council shall have discretion to issue an off-sale retailer's license without regard to the quota set forth in subparagraph (3) above, if the license falls within the category of establishment where the total square footage devoted to the sale of grocery or related items exceeds 10,000 square feet, or the impact of the applicant upon the economy of the City is determined to be beneficial.

(5) The total number of state stores, package agencies or private clubs which the City Council may approve for sale of alcoholic beverages within the City of Tremonton shall not exceed one license per 1,000 inhabitants, except as provided in (6) below.

(6) The City Council in its discretion may approve the issuance of a license to a state store or package agency without regard to the quota provided in subsection (5) above, if the licensee falls within the category of establishment which includes facilities to accommodate conventions of as many as 100 including hotel rooms, meeting rooms, and banquet facilities, and the impact of the applicant upon the economy of the City is determined to be beneficial.

(7) Subsection (1), (3) and (5) shall not be construed to prevent any licensee holding a valid license on April 2, 1981, from continuing the licensed business or from renewing his license, subject to compliance with the provisions of the law and this part, regardless of the fact that the continuance or renewal may result in there being outstanding, in the City of Tremonton, licenses in excess of the number

provided in subsections (1), (3) and (5).

(8) For the purpose of determining the number of additional licenses to be issued of each class, a fraction of five-tenths or more shall entitle the City to issue an additional license in each case. Licenses issued pursuant to any subsection of this section shall not be considered in determining the legal number of licenses permitted under any other subsection hereof.

(9) Population for determining the number of beer licenses shall be by the most recent U.S. decennial or special census or by any other population determination made by the United States Government or the State of Utah or any other agency deemed reliable by the Mayor and Council of the City of Tremonton.

9-418. Fees.

(1) A fee shall accompany an application for an original license, or in case of renewal, shall be paid in advance. Every license shall expire December 31 of each year. Fees are subject to the fee amount contained in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council.

(2) If the application is accepted by the City, there is an additional issuance fee for an original license. Fees are subject to the fee amount contained in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council.

(3) If a new license is issued on or after July 1 in any year, the fees are subject to the fee amount contained in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council.

(4) The annual renewal fee for licenses shall be found in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council..

9-419. Approval of State Liquor Store. The City of Tremonton shall not approve the establishment of a State Liquor Store or package agency under the provisions of Sections 32-1-36.5 or 32-1-36.15, *Utah Code Annotated 1953*, unless the following conditions exist:

(1) It fully complies with the Utah State law with regard to inclusion within a restaurant (package agency) or proximity to a restaurant (state store).

(2) The licensee agrees in writing to comply with all the provisions of this part.

(3) The licensee has granted a non-revocable license to the City to enter the restaurant premises for the purpose of determining compliance with this part.

(4) If a package agency, the licensee must prohibit patrons from bringing packaged liquor of any type onto the restaurant premises which was not purchased thereon.

(5) The state store or restaurant shall be located in a zone permitting establishment of a State Liquor Store.

9-420. Approval of Private Club License. The establishment of a State Liquor Store in a private club wishing to sell alcoholic beverages other than beer shall not be consented to in writing by the City Council pursuant to Section 16-613.1 (16), *Utah Code Annotated 1953*, unless the following conditions exist:

(1) The private club agrees in writing to comply with all the provisions of this part.

(2) The private club has granted a non-revocable license to the City to enter the restaurant premises for the purpose of determining compliance with this part.

(3) The private club must prohibit patrons from bringing package liquor of any type onto the restaurant premises which was not purchased thereon.

(4) The private club shall be located in a zone permitting establishment of a State Liquor Store.

9-421. Current Status of Other Charges. No license herein provided shall be issued to any applicant who is in arrears in the payment to the City of Tremonton for his business license, or who is otherwise indebted to the City. Failure to pay business license fees or other charges assessed by the City for any reason promptly when due shall be the basis for revocation of a license issued hereunder.

9-422. Certification of Employees; Condition of Premises. The right to a license hereunder shall be conditioned at all times upon compliance with the following:

(1) Standardized Training

(a) Off-Premise Beer License

It is mandatory for all businesses with an off-premise license specifically grocery and convenience stores to provide standardized training for employees who sell beer or directly supervise the sale of beer. This training shall be conducted by private companies whose instructors and curriculum have been approved by the Utah Division of Substance Abuse and Mental Health (DSAMH).

(i) Identification Badges

All businesses with an off-premise beer license are required to

(A) issue a unique identification badge to any employee who sells or directly supervises the sale of beer

(B) maintain a record available for immediate inspection of all currently assigned badges.

(C) submit a copy of each unique identification badge and certification of authorized

employees to the Tremonton City Business License Official quarterly (January, April, July and October).

(b) On-Premise Beer License

It is mandatory for all businesses with an On-Premise Beer License to have all employees who sell beer or alcoholic beverages complete an Alcohol Server Training and Education Seminar. This training shall be conducted by private companies whose instructors and curriculum have been approved by the Utah Division of Substance Abuse and Mental Health (DSAMH). (Ord. No. 06-10)

(2) The licensed premises shall be subject to inspection by the police or other authorized City agent at any time during business hours. (Ord. No. 06-10)

9-423. Unlawful Acts. It is unlawful:

(1) For a person to buy for resale, sell or deal in alcoholic beverages without first having procured a license duly issued by the City Council or otherwise complying with the provisions of this part and the Liquor Control Act.

(2) For any retail licensee to purchase beer from any person other than a wholesaler licensed in accordance with the provisions of this part.

(3) For a licensee or other person to sell, furnish, dispose of, give, or cause to be sold, furnished, disposed of or given to any person under the age of 21 years, beer, liquor, or other intoxicant, as defined in the ordinance, the Utah Alcoholic Beverage Control Act or any succeeding ordinance or statute.

(4) For a licensee to employ a person under the age of 16 years to sell or dispose of beer or any alcoholic beverage.

(5) For an on-sale retail beer licensee or state store, package agency, or private club to employ a person under the age of 21 years to sell or dispose of beer or any alcoholic beverage.

(6) For a licensee, when engaged in waiting on or serving customers, to consume beer or other alcoholic beverages, or to remain on or about the premises while in an intoxicated or disorderly condition.

(7) For an employee of a licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume beer or any other alcoholic beverage.

(8) For a licensee or other person to serve, sell or furnish beer to, or a licensee or employee of a licensee to allow or permit an intoxicated or disorderly person to come into or remain on or about the premises.

(9) For an off-sale retail licensee or an

employee of such licensee to sell, dispose of, deliver or give beer to a person between the hours of 1:00 a.m. to 5:00 a.m. of each day. Ord. 07-01

(10) For an on-sale retail licensee, State Liquor Store, private club, licensee, or employee thereof to sell, dispose of, deliver, give away or allow a person to consume beer or other alcoholic beverage on the premises between the hours of 1:00 a.m. and 10:00 a.m. of each day. Failure to pick up all drinks and beverages containing alcohol which have not been fully consumed at the closing hours set forth herein shall be considered permission to consume after the said closing hour and shall be a violation of this section. (Ord. No. 00-10)

(11) For an on-sale retail licensee to employ a person for the purpose of soliciting the purchase of beer by patrons of the establishment for themselves, on a percentage basis or otherwise. No licensee shall serve employees or allow a patron of the establishment to give beer to, or purchase beer for or drink beer with any employee while that employee is on duty.

(12) For an off-sale retailer to sell beer except in original container, or to permit beer to be consumed on the premises. The license of an off-sale licensee permitting a violation of this paragraph on the premises shall be subject to revocation.

(13) For a person to consume alcoholic beverages other than beer from a broken package in a public place, thoroughfare or gathering.

(14) For any person to furnish, provide, or offer beer or other alcoholic beverages to a person under the age of 21 years, or to knowingly aid, induce, permit, or otherwise assist in any way the consumption of beer or other alcoholic beverages by a person under the age of 21 years.

(15) For a person to advertise the sale of beer, except as may be expressly permitted by the Utah Liquor Control Commission, and except for the placement of a license issued under this part in any location on or about the premises where it will be visible to the public.

(16) For a licensee or any employee or agent of a licensee to sell, furnish, dispose of, give, or cause to be sold, or furnished, disposed of or given to a person under the age of 21 years, or for a person under the age of 21 years to buy, receive, have in possession or consume, beer or any alcoholic beverage.

9-424. Proximity Limitations.

(1) No alcoholic beverage licensee, club or other establishment selling or vending alcoholic beverages shall be located within a radius of 650 feet of any public or private school, church, public library, public playground, park, unless the City Council finds after full investigation that compliance with the distance requirement would result in peculiar

and exceptional practical difficulties or exceptional or undue hardships, in either of which events the Council may, after giving full consideration to the attending circumstances, following a public hearing in the City, authorize a variance from the distance requirement so as to relieve the difficulties or hardships, provided the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this part. Nothing in this section prevents the City Council from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location. For purposes of this subsection, "educational facility" includes nursery schools, infant daycare centers, and trade and technical schools. (Ord. No. 03-11)

(2) With respect to any public or private school, church, public library, public playground, park, the 650 foot radius limitation set forth in Subsection 9-424(1) above, shall be measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, park or other licensee, club or establishment selling or vending alcoholic beverages. Ord 03-11

9-425. Grounds for Revocation, Suspension and Refusal to Renew - Notice - Hearings, Appeals.

(1) The City Council may suspend, revoke, refuse to renew, and the City Recorder may suspend any license issued pursuant to this part for any of the following reasons:

(a) There occurs on the licensed premises repeated acts of violence.

(b) The licensee fails to satisfactorily maintain the capability, qualifications and reliability requirements of an applicant for a license prescribed in Section 9-415 or 9-416.

(c) The licensee knowingly submits false or fraudulent material information on any application or document filed with the department.

(d) The licensee attempts to assign, transfer or sell a license in violation of this part.

(e) The licensee fails to keep for a period of two years and make available to the City upon reasonable request all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of beer.

(f) The licensee is convicted of a felony, or any misdemeanor involving drugs, alcohol or moral turpitude.

(g) The licensee violates or fails to comply with this part, the Utah Liquor Control Act, or ceases to possess all of the qualifications

required by this part and the Utah Liquor Control Act.

(2) The City Recorder shall receive all complaints of alleged violation of this part and is responsible for ordering through the Police Department the investigation of all allegations of a violation of, or noncompliance with this part, the Utah Liquor Control Act, or any condition imposed upon the licensee by the license. Upon the Recorder's initiation of an investigation or upon the receipt of a complaint and an investigation of the complaint as deemed necessary, the Recorder may cause a complaint and notice of hearing to be directed to the licensee setting forth the violations alleged against the licensee, and requesting the licensee, within ten days after service of the complaint and notice of hearing, to appear by filing with the Recorder an answer to the complaint. Failure of the licensee to answer is deemed an admission by him of his commission of the act charged in the complaint. The Recorder or the City Council may then immediately begin disciplinary proceedings. The Recorder shall set the hearing before the City Council on any of the grounds set forth in subsection A of this section. In carrying out his duties under this section, the City Recorder and investigating officer shall have all those rights and duties set forth in Section 32-8-25, *Utah Code Annotated 1953*. The complaint and notice of hearing provided herein shall be sufficient if it conforms to the provisions of Section 32-8-26, *Utah Code Annotated 1953*.

(3) A hearing shall conform to the requirements of Section 32-1-32.2, *Utah Code Annotated 1953*. The City Council shall conduct a hearing and may accept any relevant and material evidence and testimony and apply the evidentiary rules prescribed in Section 32-8-31 through 32-8-45, *Utah Code Annotated 1953*. The City shall prepare an official record of the hearing, including all testimony recorded mechanically or stenographically and all exhibits introduced. The City is not required to transcribe such record except pursuant to an appeal, except that, upon written request and receipt of a reasonable fee for transcribing such record, the department may transcribe the record or allow for its transcription by the person requesting it.

(4) When the hearing is conducted by the Council, the Council shall issue a decision within ten days following the hearing. Such decision shall then be final for purposes of appeal to Circuit Court.

(5) Hearings before the City Council are open to the public and are informal with technical rules of evidence not applying to the proceedings. The Council may modify the application of Section 32-8-29, *Utah Code Annotated 1953*, in that regard in the conduct of any hearing. The license involved and any person requesting a hearing shall be notified

in the time and in the manner provided in Section 32-1-32.2, *Utah Code Annotated 1953*. The licensee involved and any person requesting a hearing may be present and cross examine witnesses and give evidence before the Council.

(6) Revocation:

(a) As stated, the City Council may, after notice and a hearing, revoke, suspend or refuse to renew any license issued hereunder. Such action shall be taken in accordance with the applicable provisions of this part, other applicable provisions of City and State law and in accordance with the guidelines established by the following subsections hereafter.

(b) A license shall be permanently revoked if the licensee knowingly submits false or fraudulent, material information on any application or document filed with the City as a part of obtaining the license.

(c) Except where the provisions of this Ordinance or other applicable statutes require the permanent revocation of a license, a licensee who is found to have violated any of the provisions of this part may have his/her/its license suspended for a maximum period of thirty (30) days for a first offense, plus an assessment as provided in the next subsection, for a maximum period of thirty (30) days for a second offense, plus an assessment as provided in the next subsection, for a maximum period of sixty (60) days for a third or subsequent offense, plus an assessment as provided in the next subsection. Provided, however, that the City Council expressly reserves the right to revoke a license if in its discretion, the circumstances warrant such action and regardless of whether the complaint and circumstances upon which such revocation is founded constitute the first, second, third or subsequent offense. Revocation remains an option for the City Council at any time under appropriate circumstances. In addition, if a period of two (2) years passes between the date of the last offense by an applicant, licensee, or any of his/her/its managers, officers, directors, partners, shareholders, agents or employees and the next offense, then the first offense after said two (2) year period shall be considered a first offense for purposes of this part. Any such offense(s) committed within one (1) year prior to the adoption of this amendment shall be considered a "first offense". The City Council retains full discretion, however, to suspend a license for a longer

period of time than the maximum stated herein or to revoke a license permanently, even though not specifically required by the provisions of this Ordinance, should the circumstances of any particular violation, in its judgment, warrant such action.

(d) In addition to the periods of suspension stated in subsection 3, above, and as a condition to the imposition of a suspension period by the City Council for up to the maximum periods of thirty (30) and sixty (60) days respectively, as opposed to a longer period of suspension, for a first, second, third and subsequent violation, the City Council may require the payment of an assessment, with such assessments, when collected, to be segregated into a separate fund and separately accounted for as provided in the next subsection, below. Assessments are subject to the amount contained in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council.

(e) All fees and assessments which are collected pursuant to the provisions of subsection 4, above, shall be segregated into a separate fund which is hereby established by the City and shall be known as the Tremonton City Alcohol Enforcement and Awareness Fund. The funds shall be subject to the control of the City Council and shall be used by the City for alcohol enforcement, training and awareness programs. In the use of said funds, the City may transfer all or a part of the funds to the Police Department for use in its budget in connection with alcohol related activities or may be used for training and awareness programs in the public schools or otherwise.

(f) It is the intent of the City Council, by these amendments and additions to the City's "Intoxicants" ordinance, to provide a more flexible and effective method by which violations of the Ordinance are dealt with and the method whereby the sanctions which are imposed upon a licensee for a violation of this part may be formulated to apply directly to the individual circumstances of the licensee and the violation committed.

(g) All references in part 9-410, "Intoxicants", to the Utah Liquor Control Act shall be deemed to refer to the Utah Alcoholic Beverage Control Act, as it is now known, and any succeeding act(s) adopted hereafter, and all references to particular sections of the prior Utah Liquor Control Act shall be deemed to refer to their

successor sections whether now in effect or hereafter adopted.

Part 9-430. Reserved.

Part 9-440. Mobile Food Vendors.

9-441. For the purpose of this Section, a Mobile Food Vendor is a business that serves food or beverages from a self-contained unit either motorized or in a trailer on wheels, conducts all or part of its operations on premises other than its own and shall be readily moveable, without disassembling, for transport to another location. The term "Mobile Food Vendors" shall not include vending carts or mobile ice cream vendors.

9-442. Mobile Food Vendors shall be permitted to operate in Tremonton City subject to the following requirements:

(1) A current Tremonton City business license is required for all Mobile Food Vendors.

(2) The applicant shall provide proof of insurance with the business license application.

(3) Mobile Food Vendors shall be permitted to operate in public right-of-ways only within the East side of 100 West from Main Street to the 50 South alley; and Shuman Park block except parking locations near the Library. Parking Mobile Food Vendors in public right-of-ways shall be no longer than two (2) hours in any one (1) location and shall move to another street as noted in this subsection. Mobile Food Vendors are prohibited from operating at the aforementioned location during Tremonton City Days or other special events as determined by the Parks and Recreation Director.

(4) Mobile Food Vendors shall be permitted to operate on private property with the commercial/industrial zones of Tremonton City provided written consent is given from the private property owner. Parking shall be adequate to serve existing property use and the proposed Mobile Food Vendor use.

(5) A background check shall be required on the owner(s)/driver(s) as follows: (a) Owner/driver who has not been a resident of the State of Utah for two (2) consecutive years prior to the application for a Mobile Food Vendor Business License shall be required to get a FBI background check (b) Owner/driver who has lived in the State of Utah for the previous two (2) years shall be required to get a BCI background check.

(6) Mobile Food Vendors shall meet all Bear River Health Department requirements.

(7) Mobile Food Vendor vehicles shall be properly registered and licensed for use.

(8) When operating in a public right-of-way, the

vending window shall face the sidewalk, and vehicle shall be clear of travel lanes and shall not interfere with pedestrian access-ways, fire lanes, driveways, or traffic visibility.

(9) Food and beverages shall only be sold or offered for sale when the vehicle is completely stopped and parked.

(10) All materials generated from the business shall be disposed of properly. Trash and recycling containers shall be provided for use by their patrons.

(11) All signs shall physically be attached to the vehicle unless authorized by Ordinance.

Part 9-450. Solicitors, Canvassers, Peddlers and Itinerant Merchants.
REPEALED (Ord. No. 06-09)

9-451. License Required. REPEALED

9-452. Definitions. REPEALED

9-453. Application for License. REPEALED

9-454. Investigation and Issuance of License.
REPEALED

9-455. Fees. REPEALED

9-456. Licenses, Badges, Revocation, Expiration, Appeal. REPEALED

9-457. Additional Requirements. REPEALED

9-458. Exceptions. REPEALED

Part 9-460. Live Entertainment.

9-461. Permit Required. It shall be unlawful for any person or group of persons to perform any live act of entertainment, other than bands, at or in any establishment or function within the City limits which the establishment or function is licensed to sell, serve, consume, distribute, or give away any alcoholic beverage until such entertaining person or group of persons has applied for and received an entertainer's permit.

9-462. Application. Persons or groups of persons applying for an entertainer's permit must apply, in person, to the Tremonton Police Department at least 24 hours prior to such person's or groups of persons' scheduled live performance, but, no such person or groups of persons shall apply for an entertainer's permit more than ten days prior to such live performance.

9-463. Identification Required. When applying for an entertainer's permit, the applicant or applicants shall present a form of identification to which the applicant's or applicants' photograph is permanently attached. In addition thereto, such applicant or applicants shall fill out an application for entertainer's permit, which, when validated by the Tremonton City Police Department shall become the entertainer's permit.

9-464. Age - Criminal Record. No entertainer's permit will be issued to any person under the age of 21 years nor to any person who has any prior felony conviction or a conviction involving moral turpitude.

9-465. Possession of Permit Required. Every person or group of persons who are issued entertainer's permits shall have the entertainer's permit in their possession when performing any live act of entertainment in any establishment or at any function within Tremonton City limits which the establishment or function has been licensed to sell, serve, consume, distribute or give away any alcoholic beverage.

9-466. Alcohol Prohibited. It shall be unlawful for any owner, operator or person in charge of any establishment or function within Tremonton City limits which has been licensed to sell, serve, distribute, give away or have consumed upon the premises any alcoholic beverage, to employ, allow to be employed, or allow to perform on the premises any act of live entertainment until such entertaining person or persons have received and displayed to said owner, operator or person in charge a valid entertainer's permit.

9-467. Permit Limited to 48 Hours. No entertainer's permit shall be valid for more than 48 hours from the time that the application is approved and the permit is issued.

9-468. Peace Officer May Request Permit. Any person or group of persons performing any act of live entertainment in any establishment or function which has been licensed to sell, serve, consume, distribute or give away any alcoholic beverage shall, at the request of any peace officer, exhibit such entertainer's permit to the peace officer.

9-469. Contents of Application. All applications for an entertainer's permit shall contain at least the applicant's name, address, date of birth, height, weight, color of hair, color of eyes, and a description of the entertainment to be provided, an address where the entertaining person will be performing, the date of the scheduled performance, and the time and

duration of the performance. In addition, the applicant shall state that said applicant has never been convicted of a felony or of a crime involving moral turpitude, and the statement shall be signed by the applicant.

9-470. Issuance of Permit. The Chief of Police, or his assistant, shall review all applications for entertainer's permits and shall either approve or disapprove the applications and sign all approved applications.

9-471. Fee. The sum that shall be charged for the issuance of an entertainer's permit shall be contained in the City's Consolidated Fee Schedule, adopted by Resolution of the City Council. Sum shall be paid prior to the issuance of the permit.

9-472. Physical Requirements of Area of Performance. All live entertainment performances shall be conducted only on a suitable stage or within the confines of a physically corded off area. The performing area shall be situated a minimum of three feet from any customer, observer or any non-performing person or persons, and no customer, observer or any non-performing person or persons shall be allowed on any stage or corded off area while any live act of entertainment is in progress.

9-473. Standing on Fixtures Prohibited. No person performing any live act of entertainment shall, during the act of entertainment, climb, stand, sit or lie down on any table, bar or other fixture that is designed for the primary purpose of holding or supporting any food or beverage when such table, bar or other fixture is being used or occupied by any person or group of persons.

9-474. Acts Prohibited. No person engaged in any act of live entertainment shall expose or cause to be exposed any of the genital or pubic areas of their person. Female entertainers shall not expose or cause to be exposed any of the nipple or nipple area of the breasts in any manner. No person engaged in any act of live entertainment shall perform in any lewd or lascivious manner.

Part 9-480. Boxing and Wrestling Contests.

9-481. Boxing or Wrestling Contests Prohibited Where Alcohol Is Sold. It is unlawful for any person to engage in any boxing or wrestling match or contest, at or in any establishment or function within the City limits which said establishment or function is licensed to sell, serve, consume, distribute or give

away any alcoholic beverage.

9-482. Giving Alcoholic Beverages Away at a Boxing or Wrestling Contest Prohibited. It is unlawful for any owner, operator or person in charge of any establishment or function or cabaret within Tremonton City limits which have been licensed to sell, serve, distribute, give away or have consumed upon the premises any alcoholic beverage, including beer, to allow on the premises any boxing or wrestling match or contest.

Part 9-490 Regulating the Retail Sales of Tobacco Products and Tobacco Paraphernalia in Non-Tobacco Specialty Businesses and/or Stores

9-491. Applicability. Excepting Tobacco Specialty Businesses and/or Stores, no individual, entity or organization shall:

(1) Sell, furnish, or otherwise distribute a "Tobacco Product" and/or "Tobacco Paraphernalia" as defined in this Part and Section 10-8-41.6 of the Utah Code, unless it satisfies the requirements set forth in this Part.

9-492. Definitions.

(1) **"Retail Tobacco Specialty Business"** As used herein, this term/phrase shall have the same definition as set forth in Section 10-8-41.6(1)(b) of the Utah Code.

(2) **"Tobacco Paraphernalia"** As used herein, this term/phrase shall have the same definition as set forth in Section 76-10-104.1(1)(b) of the Utah Code.

(3) **"Tobacco Product"** As used herein, this term/phrase shall have the same definition as set forth in Section 10-8-41.6(1)(c) of the Utah Code.

(4) **"Tobacco Sales Business"** As used herein, this term/phrase means a business that has been issued a Tobacco Sales Business License authorizing the sale of tobacco products and tobacco paraphernalia from its validly licensed business, excluding a Tobacco Specialty Business and/or Store.

(5) **"Tobacco Sales Business License"** A business license issued by Tremonton City which permits the licensee to sell tobacco products and tobacco paraphernalia from its validly licensed business.

9-493. Tobacco Sales Business License Required.

(1) Tobacco Products and Tobacco Paraphernalia: Excepting Tobacco Specialty Businesses and/or Stores, no individual, entity, organization, or business shall sell Tobacco Products or Tobacco Paraphernalia unless it has obtained a Tobacco Sales Business License. A Tobacco Sales Business License shall only

be issued as a secondary license to a business license for one of the following:

- (a) A business that is primarily engaged in the sale of food and beverage products and is located in a building which is ten thousand (10,000) square feet or larger;
- (b) A business that is primarily engaged in the sale of gasoline or diesel fuel and is located in a building which is one thousand (1,000) square feet or larger;
- (c) A business license for a pharmacy under Utah Code and is located in a building which is ten thousand (10,000) square feet or larger; or
- (d) A business license for any business that was lawfully selling Tobacco Products and Tobacco Paraphernalia under that license prior to April 8, 2014.

(2) Application for License:

- (a) An application for a license shall be made in writing on the form provided by the City Recorder and/or designee. The form must be completed in its entirety. The application must be accompanied by:
 - (i) The business license required in this Part;
 - (ii) Documentation showing the square footage of the building;
 - (iii) Proof of the operation of a business specified in 9-493(1)(a), 1(b), or (1)(c) of this Part, if the application is to qualify as such a business; and
 - (iv) If seeking to qualify under 9-493(1)(d) of this Part, proof of the lawful sales of Tobacco Products and Tobacco Paraphernalia prior to April 8, 2014.

9-494. Revocation of a Business License and/or Tobacco Sales Business License.

(1) Pursuant to Tremonton City Code 9-120, the City may suspend, revoke, or terminate the primary business license of a business which is operating as a Tobacco Sales Business if:

- (a) The licensee, owner, or operator:
 - (i) Engages in a pattern of unlawful activity as outlined in Utah code 76-10-1601 et seq., or its amendment; or
 - (ii) Violates any alcohol or drug related offenses, regulations restricting the sale and distribution of Tobacco Products or Tobacco Paraphernalia, or any felony offenses under any provision of federal, state, or local law.
- (b) While on the business premises, an employee violates:

- (i) Any laws or regulations related to alcohol or controlled substances;
- (ii) Any laws or regulations restricting the sale and distribution of Tobacco Products or Tobacco Paraphernalia; or
- (iii) Any provision of federal, state, or local law which would be a felony level offense.

(c) The Tobacco Sales Business does not maintain the right to operate under the terms of other applicable laws, including zoning ordinances, building codes, and the business license.

(2) In addition to the provisions outlined in subsection (1) of this section, a business licensed hereunder may have its Tobacco Sales Business License permanently revoked if:

- (a) The Tobacco Sales Business License is not renewed continuously;
- (b) The Tobacco Sales Business is closed for business or otherwise suspends the sale of Tobacco Products or Tobacco Paraphernalia for more than sixty (60) consecutive days; or
- (c) The Tobacco Sales Business substantially changes the business premises or its business operation.

9-495. Penalty. Any violation of this Part shall be subjected to the fine amount and severity of punishment contained in the City's Consolidated Bail Schedule, adopted by Resolution of the City Council, not including any mandatory fees and surcharges imposed by law or a court of competent jurisdiction.

9-496. Conflicts. 9-490 *et al* shall supersede any conflicting City Code, Ordinance or Policy. (Ord. No. 14-07)

REV 08-16.1

