ORDINANCE NO. 94 - 09

AN ORDINANCE ADOPTING A BUSINESS LICENSING ORDINANCE FOR THE CITY OF WENDOVER, UTAH, AND ADOPTING A CONSOLIDATED FEE SCHEDULE FOR THE CITY OF WENDOVER, UTAH.

PREAMBLE

The City Council of Wendover, Tooele County, Utah has found it necessary and Reasonable to adopt a new ordinance for the licensing of businesses within the City.

The City council has also found it necessary and reasonable to adopt a Consolidated Fee Schedule, pursuant to which the City will eventually set forth fees and charges to be collected for City services, permits and licenses.

The City Council desires to adopt a Business Licensing Ordinance and Consolidated Fee Schedule which is fairly and equitably enforced by the City and which enacts fair and reasonable regulations while at the same time promoting an economic climate which encourages the development of and sustains existing business enterprise in the City.

BE IT ORDAINED BY THE CITY COUNCIL OF WENDOVER, TOOELE, COUNTY, UTAH AS FOLLOWS:

Section 1. Adoption of Business Licensing Ordinance. The City hereby adopts The WENDOVER CITY BUSINESS LICENSE ORDINANCE attached hereto as Exhibit A, and incorporated as though fully set forth herein.

Section 2. Adoption of Consolidated Fee Schedule. The City hereby adopts the WENDOVER CITY CONSOLIDATED FEE SCHEDULE attached hereto as Exhibit B, and incorporated as though fully set forth herein.

Section 3. Repeal of All Conflicting Ordinances. The City's prior business Licensing ordinance, ordinance No. 83-20, and all amendments thereto are hereby repealed for all business regulated thereunder. This repealer shall not effect other business related ordinances not described in the Ordinance adopted pursuant to Section 1, above, including but not limited to the City's Sexually Oriented Business Ordinance and the City's ordinances and regulations dealing with the sale and distribution of alcoholic beverages.

Section 4. Repeal of All Conflicting Fees. All prior ordinances and resolutions establishing fees for City services, permits and licenses for which a fee is established and set in the Consolidated Fee Schedule described in Section 2, above, are hereby repealed. This repealer shall not affect other fees, previously adopted by the City, not described and set in the Consolidated Fee Schedule adopted pursuant to Section 2, above, including but not limited to fees for alcoholic beverage licenses, and any and all other fees not defined and established in the Consolidated Fee Schedule.

Section 5. Adoption of Business License Application. The form CITY OF WENDOVER BUSINESS LICENSE APPLICATION, attached hereto as Exhibit C, and incorporated as though fully set forth herein is hereby adopted as the business license application for the City until later revised and approved by the City.

Section 6. Effective Date. This Ordinance shall take effect immediately once passed by the Wendover City Council, signed by the Mayor, filed with the office of the City Recorder and posted as required by law.

PASSED AND ADOPTED THIS 7th DAY OF NOVEMBER, 1994.

CITY OF WENDOVER, UTAH

Brenda Morgan

BRENDA MORGAN, MAYOR

ATTEST:

Margaret L. Wheeler

CITY RECORDER

EXHIBIT "A"

WENDOVER CITY BUSINESS
LICENSING ORDINANCE

BUSINESS LICENSE ORDINANCE

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WENDOVER CITY BUSINESS LICENSE ORDINANCE

CHAPTER 1. GENERAL PROVISIONS

1-101. DEFINITIONS.

The following definitions shall be applicable throughout this Title unless a different meaning is clearly intended:

(1) "Alcoholic Beverage Licenses" means Class 'A,' Class 'B,' Class 'C' or Class 'D' beer licenses, nonprofit club licenses or liquor consumption licenses as defined in this Title, or elsewhere in the Ordinances of the City.

(2) "Applicant" means any person applying for any license provided for in this Title. If the person is a partnership or corporation, then each person who owns or controls an interest in the business equal to or greater than ten percent (10%) shall be identified on the business shall be identified on the business license application, and shall be considered an applicant.

(3) "Application" means a formal written request for the issuance of any license permitted under this Title.

(4) "Authorized Officers" means those persons duly appointed by the City or other entities to inspect businesses and enforce the provisions of this Title or other applicable regulations, including peace officers, ordinance enforcement officers, and employees of the County Health Department, The City Fire Chief, Fire Marshall or their duly appointed designee, an appointed officer charged with enforcement of the City's planning and zoning regulations, The City Building Inspector, City Attorney's Office or the Mayor.

(5) "Building Division" means the Building Inspector employed or contracted by Wendover City.

(6) "Business" means and includes all trades, occupations, professions or activities engaged in within Wendover City, carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically provided.

(7) "Business License Division" means the Office of the Wendover City Recorder and any Authorized Officer.

(8) "City," when spelled with a capital "C," means Wendover City.

(9) "City Attorney's Office" means the Wendover City Attorney and/or The Wendover City Prosecutor.

(10) "City Mayor" or "Mayor" means the duly elected Mayor of Wendover City.

(11) "City Recorder" means the Wendover City Recorder.

(12) "Consolidated Fee Schedule" means the schedule of fees adopted each year or from time to time by resolution or ordinance of the Wendover City Council setting forth the various fees charged by the City.

(13) "Employee" means all individuals who work for an employer for salary or commission or wages and who are subject to the direction and control of such employer.

(14) "Engaging in Business" includes, but is not limited to, the sale of real or personal property at retail or wholesale, the bartering or trading of property or services, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.

(15) "Fire Department" means the Wendover City Fire Department.

(16) "Health Department" means the Tooele City/County Health Department.

(17) "Hearing Board" shall mean each and every member of the License Hearing Board of Wendover City. (Section 2-105 of this Title.)

(18) "Interior Business" means any person which intends to conduct business at any single place of business within the building confines or otherwise within the business premises of another licensed business. (See definitions set forth in Chapter 20).

(19) "License Officer" means the City Recorder or his/her designee who is appointed by the Mayor with the advice and consent of the City Council.

(20) "Licensee" means the person who has obtained any type of license provided for in this Title.

(21) "Ordinance Enforcement Office" means the City Police Department and/or any Ordinance Enforcement officer appointed by the Chief of Police, Mayor or City Council.

(22) "Person" means an individual, partnership, corporation, association or other legal entity.

(23) "Place of Business" means each separate location maintained or operated by the licensee, whether or not under the same name, within the City from which business is engaged in. The term "Place of Business" shall not include separate locations such as: separate residential rental dwelling units; storage units located within the same or separate business locations if operated by the same person under the same trade name; nor warehouse locations within the same or separate business locations if operated by the same person under the same trade name.

(24) "Planning and Zoning Division" means the Planning and Zoning Board of Wendover City.

(25) "Police Department" means the Wendover City Police Department.

(26) "Specified Anatomical Areas" means:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(27) "Specified Sexual Activities" means:

- (a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy; or

(c) Fondling or other erotic touching of human genitals, pubic region or female breast.

(28) "Violated" or "Violating" means that there exists reasonable cause to believe that any ordinance, code, statute or law has been or is being violated and is not limited to pleas of guilty or convictions for violating said ordinances, codes, statutes or laws.

1-102. BUSINESS LICENSE REQUIRED.

(1) Unless otherwise provided, it shall be unlawful for any person to engage in any business within the City without first having obtained a business license pursuant to this Title. A separate license shall be required for each type of business defined herein and for each place of business. Each day of noncompliance shall constitute a separate violation.

(2) In addition to any criminal prosecution or civil proceedings, if any person found violating this section later applies for a license and if a license is granted, the penalty fees shall be as follows:

(a) Prior to December 1, 1994, penalty fees shall be waived. This Section shall not apply to renewal penalty fees.

(b) Effective December 1, 1994, the penalty fee shall be 100 percent of the license fees for the first year, and the business shall pay an additional penalty for each year or portion of a year in which the business operated without a license.

(c) The Mayor may reduce or waive the penalty fees to be paid by a business operating without a license one time per calendar year for a period not to exceed one month, for the purpose of encouraging unlicensed business to properly license.

1-103. BUSINESS LICENSE DIVISION -- DUTIES AND RESPONSIBILITIES.

It shall be the duty and responsibility of the Business License Division to:

(1) Enforce the provisions of this Title;

(2) Collect all business license fees and all alcoholic beverage license fees;

(3) Process all applications and renewals of all licenses provided for in this Title;

(4) Obtain the necessary approvals from the various City departments and divisions before issuing any business licenses or alcoholic beverage licenses; and

(5) Deny, suspend or revoke licenses as provided in Chapter 3 of this Title.

(6) Include in reports requested by the Mayor or City Council a list of all licenses issued during the month.

1-104. BUSINESS LICENSE APPLICATION.

The Wendover City Business License Application shall be in such format and require such information as the Mayor, with the Advice and consent of the City Council deems necessary to enforce this Title, including but not limited to:

(1) The name, social security number, date of birth, home address, and business mailing address of the person applying for the license;

(2) The registered name and/or trade name of the business, if applicable;

(3) The Federal Tax Identification No. of the applicant, if applicable;

(4) The type of business to be engaged in;

(5) The class of license desired, if the type of license is divided into classes;

(6) The location of the place of business;

(7) Utah State withholding and sales tax identification numbers, if applicable;

(8) A Utah State contractor's number, if applicable;

(9) Proof that the business is licensed or registered by appropriate State or County agencies, if applicable; and

(10) A copy of any license or permit required by the State of Utah or by Tooele county. In the event the license or permit is not issued at the time of application or if contingent upon issuance of a City business license, a copy of the application for the State or County permit or license shall be attached to the application.

(11) A statement as to the estimated number of full time employees of the business, and if applicable, the estimated number of "Interior Business" licensees, as defined in Chapter 20.

(12) A statement as to whether the applicant is a United States Citizen or is otherwise qualified to work or conduct business in the United States.

(13) The name, address and telephone number of a manager or other agent of the business if the applicant will not be at the business premises on a regular basis.

(14) A space for the applicant or applicant's authorized agent to sign under penalty of law that all the information contained therein is true.

1-105. ISSUANCE OF A BUSINESS LICENSE.

(1) An applicant for a business license shall fill out the application in full and sign it as verification under penalty of law that all information contained therein is true.

(2) The application shall be returned to the Business License Division by the applicant along with full payment of all business license fees.

(3) Where required by this title, the Business License Division shall submit copies to the Planning and Zoning Division, Building Inspector, Fire Department, Health Department, and to the Police Department, for their review, unless a specific provision of this Title requires submission to fewer or additional departments, divisions or agencies than those named.

(4) Where required by this title, only after receiving signed, written approval from each of the entities named in this Section, the Business License Division shall be authorized to prepare a Certificate of License for issuance.

(5) Once all applicable requirements of this Title and other provisions of law have been met, the Certificate of License shall be signed by the City Recorder, City Treasurer or by the Mayor and shall contain the following information:

(a) The person's name to whom the certificate is issued;
(b) The business name;
(c) The type of business licensed;
(d) The date the license was issued;
(e) The expiration date of the license;
(f) The address of the place of business licensed; and
(g) The business license number.

(6) If the business is licensed to conduct more than 1 type of business, as defined herein, the certificate of license shall state each type of business licensed.

(7) If the issuance of a State or County license or permit is contingent upon the applicant having a business license issued by the City (including but not limited to the issuance of a state alcoholic beverage license), the license issued by the City shall not be effective, and the applicant shall not conduct the part of its business regulated by the State or County, until the applicant has received all licenses and/or permits required by the State and/or County and filed a copy of the same with the City.

1-106. RENEWALS OF BUSINESS LICENSES.

(1) Each year, licensees shall renew their business licenses by completing an application for a license renewal signed under penalty of law that all information contained therein is true and returning it, along with the proper fees, to the Business License Division within the time period set forth in Section 1-109(2) below. Renewal applications for businesses which require police checks of the licensees shall also be submitted to the Police Department for its approval to ascertain whether the licensee still meets the necessary qualifications.

(2) Upon receipt of the application fees, and Police Department approval, if applicable, the Business License Division shall be authorized to prepare a Certificate of License as provided in this Chapter.

(3) The Mayor, with the advice and consent of the City Council, may designate a Renewal Business License Application Form in such format as is deemed necessary to meet the requirements of this Title. A Renewal Form should contain, at minimum, the following information: the name addresses (residential, business and mailing) and telephone number of the renewal applicant; the business license number of any license issued to the applicant in the previous year; a statement of any changes in the status of information provided in a previous license application; and a certification that the information contained in the Renewal Application is true and correct.

1-107. INSPECTIONS.

(1) Authorized officers shall be permitted to make an inspection to enforce any of the provisions of this Title or any other applicable statute or ordinance, and may enter any building or may enter upon any premises during regular business hours; or, if there are no regular business hours, the officers or their authorized representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(2) No owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the authorized officer or his representative(s) for the purpose of inspection and examination to insure compliance with this Title.

1-108. PAYMENT DATES OF BUSINESS LICENSE FEES.

(1) Business license fees for new businesses shall be due and payable upon making application to the Business License Division. The application shall not be processed until the fee is paid.

(2) Business license fees for renewal businesses shall be due and payable on or before the first day of July, next following the date the license was originally issued. If the license is not paid within thirty days of the due date, a 50 percent penalty of the amount of the fee shall be added to the original amount due. If the fee is still not paid within sixty days of the due date, a 75 percent penalty of the amount of the fee shall be added to the original amount due. If the fee plus penalty is still not paid within ninety days, then 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 three months from the due date and the license fee, if a license is granted thereafter, shall be doubled, as required by Section 1-102 (2).

(3) Penalty fees may be appealed to the Mayor who may, for good cause shown, refund all or part of the applicable penalty fee that has been paid. The decision of the Mayor may be appealed to the Business License Hearing Board as set forth

in Chapter 3 of this Title. The Business License Hearing Board may, upon good cause, recommend that all or part of the penalty fee be refunded.

1-109. TERM OF BUSINESS LICENSES.

All business licenses, shall expire each year on the last day of June next following the issuance of the business license.

1-110. BUSINESS LICENSE FEES -- PARTIAL YEAR.

All business license fees shall be those set forth in the Consolidated Fee Schedule, or by other ordinance or resolution duly adopted by the City. The total fee required each year for each type of business consists of the base fee plus any variable fees and regulatory fees which apply to the particular business.

(1) The base fees, variable and regulatory fees are categorized in the Consolidated Fee Schedule by type of business. The definition of each type of business and the specific regulations governing them are found in this Title. If a particular type of business is not listed in the Consolidated Fee Schedule, then its base fee shall be the general business license base fee as set forth in the Consolidated Fee Schedule.

(2) The variable and regulatory fees for each business, regardless of whether defined in this Chapter, are set forth in the Consolidated Fee Schedule.

(3) Any license application received prior to December 31 of any year shall be accompanied by the entire license fees required herein or by the Consolidated Fee Schedule. If an application is received between January 1 and June 30 of any year, the base license fee shall be one-half (1/2) of the base fee described in the Consolidated Fee Schedule. There shall be no reduction in the amount paid for variable and regulatory fees hereunder regardless of when the application is made.

1-111. EXEMPTIONS TO BUSINESS LICENSE FEES REQUIREMENTS.

(1) A business license fee shall not be imposed on any person engaged in business solely for religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and/or 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.

(2) Any business exempt from paying the license fee as provided in this Section shall still comply with all other requirements of this Title, and shall, at minimum, comply with the following: complete and sign a business license application or renewal application, if applicable; provide the City with proof of its tax exempt status, and provide the City with a current copy of any certificate related thereto. All regulations of this Title, other than the payment of license fees shall apply to those exempted under this section.

1-112. TRANSFER OF LICENSE RESTRICTED.

(1) Business licenses may be transferred to another person for the same location upon the new person making application and being able to qualify for such license under this Title and paying the business license transfer fee as set forth in the Consolidated Fee Schedule.

(2) A Business License may be transferred to a new location within the City upon the licensee giving the City notice of the transfer, completing a new application form, obtaining approval from all appropriate departments as to the new location, and payment of the business license transfer fee described in the Consolidated Fee Schedule.

1-113. DISPLAY OF LICENSES.

(1) Every certificate of license for a business shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When the certificate of license has expired, it shall be removed and no certificate of license which is not in force and effect shall be permitted to remain posted within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

(2) In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

1-114. RECIPROCAL RECOGNITION OF BUSINESS LICENSES.

(1) A business license shall not be required for operation of any vehicle or equipment in this City when:

(a) Such vehicle is merely passing through the City; or

(b) Such vehicle is used exclusively in interstate commerce.

(2) A business license shall not be required of any person whose only business activity in this City is the mere delivery in the City of property sold by him at a regular place of business maintained by him outside the City where:

(a) Such person's business is at the time of such delivery licensed by the Utah city or county in which such place of business is situated; and

(b) The authority licensing such business grants to licensees of this City making deliveries within its jurisdiction the same privileges, upon substantially the same terms as are granted by this Section; and

(c) Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of this City for compliance with health or sanitary standards prescribed by this City; and

(d) The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

(3) Except as otherwise provided herein, a business license shall not be required of any person who is duly licensed in another county or another city in Utah, has no business location in the city and the county or other licensing city would also reciprocate if the same business were located in the City.

(a) Before reciprocity is granted, the person must fill out a business license application and show proof of a valid business license in a qualifying city or county.

(b) Reciprocity shall not be granted to solicitors, mobile food units or any business requiring police checks or police I.D. cards.

(4) The City Recorder shall, at the request of any person upon payment of copying and postage costs, certify a copy of this section to any city or county of the State of Utah.

1-115. PENALTY.

(1) Any violations of this Title shall be a Class 'B' misdemeanor.

(2) Each day of noncompliance shall constitute a separate violation.

1-116. CONSTRUCTIVE NOTICE OF TIME PERIODS.

(1) The City shall provide renewal notices of business license applications to each current holder of a City business license no later than the first week of June immediately preceding the expiration of any business license.

(2) All businesses, owners, licensees, or 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 Title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters set forth in this Title.

(3) With the exception of the notification required in paragraph (1), above, nothing in this Title 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 noncompliance with said time periods and/or deadlines set forth in this Title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters as set forth in this Title.

1-117. CIGARETTE VENDING MACHINE SALE TO MINORS.

It shall be unlawful for any person to maintain a cigarette vending machine in a location where the same is used or accessible by minors under the age of 19 years.

CHAPTER 2. DENIAL, SUSPENSION OR REVOCATION OF A LICENSE

2-101. DENIAL OF A BUSINESS LICENSE OR ALCOHOLIC BEVERAGE LICENSE.

After a person has made application to the City for a business license or an alcoholic beverage license, the application may be denied for any of the following reasons:

(1) The applicant does not meet the qualifications for a licensee as provided under this Title.

(2) For a new application, nonpayment of a returned check for the required license fees at the time the application is made. For a business license renewal application, nonpayment of the required license fees plus penalty three months after it is due. For an alcoholic beverage license, nonpayment of the required license fees plus penalty in any year.

(3) One of the reviewing departments or divisions of the City provided for in this Title has disapproved the application pursuant to any applicable provision of the City Code.

(4) False or incomplete information given on the application.

(5) Noncompliance with any requirement or condition set by the Planning Commission or Planning and Zoning Division, if applicable, under a conditional use permit or by the Board of Adjustment or Planning and Zoning Division, if applicable, granting a variance or special exception.

(6) Noncompliance with any city, state or federal statutes or any Health Department regulations governing the applicant's proposed business.

(7) Any other violation of this Title.

2-102. REASONS FOR SUSPENSION OR REVOCATION.

An existing business license or alcoholic beverage license may be suspended or revoked for any of the following reasons:

(1) The licensee does not now meet the qualifications for a licensee as provided under this Title;

(2) False information given on an application;

(3) The licensee has violated or is violating any provision of this Title or provision of the City Code, state or federal statutes or regulations governing the licensee's business.

(4) The licensee has obtained or aided another person to obtain a license by fraud or deceit;

(5) The licensee has failed to pay property taxes or sales tax;

(6) The licensee has refused authorized representatives of the City to make an inspection or has willfully interfered with such representatives while in the performance of his duty in making such inspection;

(7) The licensee is not complying with a requirement or condition set by the Planning Commission or Planning and Zoning Division, if applicable, under a conditional use permit; by the Board of Adjustment or Planning and Zoning Division, if applicable, granting a variance or special exception; by the City Council; or by agreement;

(8) Violation of this Title by the agents or employees of a licensee and violations of any other laws by the agents or employees committed while acting as an agent or employee of the licensee under the following conditions:

(a) A violation of any provision of this Title unless the Licensee:

(i) Had no knowledge of the wrongful conduct and in the exercise of reasonable diligence could not have known of the conduct; and

(ii) Was unable to prevent the violation or attempted violation with the exercise of reasonable diligence.; or

(b) The same agent or employee violates any provision of this Title more than two times, regardless of the knowledge or diligence of the Licensee.

(9) Any other violation of this Title.

2-103. ENFORCEMENT.

(1) The License Officer shall have the authority, without a hearing, to deny or reject an application for a license for the reasons provided for in this Chapter.

(2) The License Officer shall have the authority to give notice of the suspension or revocation of a license without a hearing, for reasons provided for in this Chapter. However, the suspension or revocation shall not take effect until the time period for appealing the decision as set forth in this Chapter below has passed.

(3) The License Officer may, on his or her own initiative or in response to complaints from the general public or any City department or division, investigate and gather evidence of violations of this Title or other circumstances which may give rise to a denial, suspension or revocation.

2-104. PROCEDURE FOR SUSPENSION OR REVOCATION.

The License Officer shall cause written notice to be given by personal service or registered mail to the licensee of his or her decision to suspend or revoke a license, the reason for such decision, that operation of a business after the effective date of the suspension or revocation is a Class "B" misdemeanor, the licensee's right to appeal the License Officer's decision and have a hearing, and the appeal procedure.

2-105. LICENSE HEARING BOARD.

There is hereby created the License Hearing Board of Wendover City consisting of three members appointed by the Mayor with the advice and consent of the City Council. Two members of the Board, one of whom must be a Wendover City employee, shall both be residents of Wendover City and the third member, who need not be a Wendover City resident, shall be a holder of or have a substantial interest in a current Wendover City business license. Membership on the City Council or any other City board or committee shall not disqualify a person from service on the License Hearing Board. Board members shall be appointed for three-year terms or until their successors are appointed and shall serve without compensation. Initially, appointments shall be made for one, two and three-year terms. Annually, thereafter, the Mayor shall, with the advice and consent of the City Council, appoint for three-year terms, Board members to take the place of retiring Board members. Vacancies in the Board caused by removals, resignations or otherwise, shall be filled for the unexpired term in the same manner as original appointments. The License Hearing Board shall have authority to hear evidence in business license matters referred to the Board and, after such hearing, shall submit its recommendations in writing to the Office of the Mayor. Nothing herein shall prevent the Mayor or a member of the City Council from serving as a member of the Board. The Mayor shall designate one member of the Board to be Chairman and one member of the Board to be Vice-Chairman for a period of one year. The Mayor, with the advice and consent of the City Council may appoint one or two alternate members of the Hearing Board who shall serve in the absence of a regular member of the Hearing Board.

2-106. APPEAL PROCEDURE.

(1) Appeals of a License Officer's decision to deny, suspend or revoke a license may be made by filing a written notice of appeal with the Hearing Board within 15 days of receipt of the notice of denial, suspension or revocation.

(2) The notice of appeal shall be in writing and shall set forth with specificity the reasons for which the appeal is taken.

2-107. HEARING.

(1) The hearing shall be at a time, place and day set by the Hearing Board, but not later than fifteen days after receipt of the notice of appeal.

(2) At the hearing, the Hearing Board, License Officer or a representative from the City Attorney's Office shall present the reasons for the decision to deny, suspend or revoke the license.

(3) The applicant or licensee, in person or through his or her attorney or other representative, may then present any evidence showing reason why the Hearing Board's decision was in error.

(4) All witnesses shall be sworn to testify truthfully. Either party is entitled to confront and cross-examine any witnesses.

(5) Any oral or documentary evidence may be received, but the Hearing Board shall exclude all privileged, irrelevant, immaterial or unduly repetitious evidence.

(6) If the denial, suspension or revocation appealed from was based on a finding by the Building Division, Planning and Zoning Division, Fire Department, Health Department or Police Department that the business was or would be in violation of their applicable ordinances or regulations, then this determination shall be conclusive on the Hearing Board and its decision may be based only on whether the License Officer acted properly in denying, suspending or revoking the license because of the Building Division's, Planning and Zoning Division's, Fire Department's, Health Department's or Police Department's determination.

(7) If the denial, suspension or revocation appealed from was based on a determination by the Business License Officer that grounds existed pursuant to this Code, then the Hearing Board may examine the factual nature of said grounds and determine whether such grounds are sufficient to sustain the decision of the Business License Officer.

(8) The Business License Hearing Board does not have the authority to waive compliance with applicable provisions of the Business License ordinances, nor can the Hearing Board extend deadlines set forth in said ordinances or change the substance or form of said ordinances.

2-108. DECISION OF THE HEARING BOARD.

The Hearing Board, after hearing all the evidence, shall announce its decision within seven working days from the date of hearing. The Hearing Board may affirm or reverse the decision of the Business License Officer. The decision shall be in writing and shall be based only upon findings of fact. The Hearing Board may designate that the prevailing party draft the Findings of Fact and Order. If the prevailing party drafts the Findings of Fact and Order, the opposing party shall have five days from the date the draft is submitted within which to file objections to the draft. Upon resolution of all objections to the draft, the Hearing Board shall release the Findings of Fact and Order.

2-109. APPEAL OF HEARING BOARD DECISION.

Any decision of the License Hearing Board may be appealed by the applicant, licensee, or City to the District Court within 30 days from when the written decision is made.

2-110. LICENSING AFTER REVOCATION.

A person, whose license has been revoked, may not be issued a license until he has filed a new application with the City, paid all applicable fees, and met any other requirements of this Title, and has also complied with the following time limitations:

(1) A new license may be issued immediately if the licensee has paid all fees and fines imposed as a result of any license violation proceeding and has posted a bond in an amount not less than $1,000 for the faithful performance of the requirements of this Title; or

(2) All fees and fines imposed as a result of any license violation proceeding have been paid in full, and a period of six (6) months has passed since the suspension or revocation of the license.

2-111. VALIDITY OF BUSINESS LICENSE OR ALCOHOLIC BEVERAGE LICENSE DURING APPEAL.

Throughout the appeal process as outlined above, a licensee holding a suspended or revoked business or alcoholic beverage license may continue to operate his or her business in accordance with federal, state and local laws pending final decision on the appeal, or until the time for appeal has passed, whichever occurs first.

2-112. BUSINESS OWNER RESPONSIBLE FOR CONCESSIONAIRE.

For purposes of business or premises' owners who contract out the sale of alcoholic beverages on the business premises to an independent concessionaire, violation by said concessionaire of any provision of this Title shall constitute grounds for suspension and/or revocation of the license of said business or premises owner.

2-113. EFFECT OF SUSPENSION OR REVOCATION ON OTHER LICENSES.

(1) The suspension or revocation of a business license held by a licensee for reasons unrelated to any other license shall not effect any other license held by the same licensee.

CHAPTER 3. BASE FEES AND BONDING

3-101. DEFINITIONS.

(1) "Coupon Seller" means a person who sells coupons, detachable parts of tickets, advertisements or other certificates entitling the bearer to certain stated benefits, such as a cash refund, gift or discount.

(2) "Exterminator," "Fumigator" or "Pest Control Operator" means any person who uses any toxic, noxious, poisonous or dangerous substance, either gaseous, liquid or otherwise, specified by the Health Department as liable to affect human beings by causing sickness or death and used for the extermination of household insects, vermin or rodents.

(3) "Food Refrigeration Storage Units" means and includes any establishment wherein compartments are rented, leased or made available to any party other than the owner of the establishment for the refrigerated storage of food.

(4) "House Mover" means any person that moves houses, including raising or shoring.

3-102. BONDS REQUIRED FOR CERTAIN BUSINESSES.

(1) The following businesses shall be required to post a bond, in an amount as indicated below, with a corporate surety authorized to do business in the State of Utah, conditioned to indemnify the City or any individual for any loss, damage or expense occasioned by any act or failure to act of the licensee, or by any failure of the licensee to comply with the laws of the City, the Health Department or the State:

(a) Carpet cleaners: $1,000
(b) Coupon Seller: $15,000
(c) Drapery cleaners: $1,000
(d) Exterminator, Fumigator or Pest Control Operator: $1,000
(e) Food Refrigeration Storage Units: $1,000
(f) Furniture cleaners: $1,000
(g) House Mover: $1,000

(2) The City may establish other bonding requirements for any business as set forth herein.

3-103. BASE AND VARIABLE FEES.

The City shall establish, and may modify from time to time, a base fee required for the issuance of a business license, and any variable or regulatory fees to be paid in addition to the base fee. Said fees shall be set forth in the Consolidated Fee Schedule or other ordinance or resolution adopted by the City.

CHAPTER 4. SWAP MEETS

4-101. DEFINITIONS.

(1) "One-Day Swap Meet Seller" means a business license issued for a specific twelve-hour period by a swap meet business licensee on behalf of the City.

(2) "Swap Meet" means property where the owner or lessee rents, lends or leases the premises to persons for use as a market place to barter, exchange or sell goods. A flea market shall be considered a swap meet. Yard sales and garage sales at residences are not swap meets.

4-102. ONE-DAY SWAP MEET LICENSE.

(1) It shall be unlawful for any person to barter, exchange, or sell goods at a swap meet without first having obtained a business license pursuant to this Chapter.

(2) The applicant shall fill out a One-Day Swap Meet License Application in full, which shall be supplied to him by the swap meet licensee. The application shall be completed each day before the applicant conducts business at the swap meet. The applications shall be turned in by the swap meet licensee to the police department the same day as the swap meet.

(3) The fee for a One-Day Swap Meet License shall be that set forth in the Consolidated Fee Schedule.

(4) The fees shall be accounted for on a monthly basis and remitted to the City on or before the 10th day of the following month.

(5) The One-Day Swap Meet License applications shall be printed by the swap meet licensee according to the format approved by the City.

4-103. SALE OF OBSCENE MATERIALS, DRUG PARAPHERNALIA, OR SALE OF SEX PARAPHERNALIA TO MINORS PROHIBITED.

(1) It shall be unlawful to sell or exhibit any obscene or pornographic materials at a swap meet in violation of any provision of the Wendover City Code or of any provision of the Law of the State of Utah. The swap meet licensee shall enforce this provision and may be prosecuted for any violation under Wendover City Code.

(2) It shall be unlawful to sell any drug paraphernalia at a swap meet, in violation of Utah Code Annotated 58-37a-1 Section, et seq.

(3) It shall be unlawful to sell any sex paraphernalia to minors at a swap meet in violation of any provision of the Wendover City Code.

4-104. PAWNBROKERS AND SECONDHAND DEALERS.

A swap meet license or one-day licensee shall not conduct the business of pawnbroker or secondhand dealer without having obtained the licenses required for such businesses as provided in this Title in addition to the licenses required under this Chapter.

4-105. ENFORCEMENT.

Uniformed peace officers shall be hired by the swap meet licensee to be present at each swap meet to insure that the provisions of this Chapter are complied with and that other applicable City ordinances and State statutes are not violated. The number of officers required shall be as follows:

(1) One officer shall be required for all swap meets with 25 or less one-day licensees.

(2) Two officers shall be required for all swap meets with more than 25 but less than 100 one-day licensees.

(3) One additional officer shall be required for each 100 daily licensees above the first 100.

4-106. QUALIFICATIONS OF LICENSEES AND SELLERS.

A business license or a one-day license shall be denied, suspended or revoked where the applicant, licensee, one-day licensee, or manager or operator of the swap meet:

(1) Is not 18 years or older; or

(2) Has been convicted of any felony or of a crime involving theft or receiving stolen property within the last five years, or has completed sentence for any of the foregoing crimes within the last 5 years.

(3) Who has, in the past seven years, been convicted of or is presently charged with a felony in violation of any law relating to burglary, theft, robbery, receiving stolen property, or any law involving moral turpitude; or

(4) Who has, in the past five years, been convicted of or is presently charged with a misdemeanor in violation of any law or ordinance relating to theft, receiving stolen property, or any law or ordinance involving moral turpitude; or

(5) Who has pled guilty to or forfeited his bail on a charge of having committed a felony; or

(6) Who is a partnership, any member of which lacks any of the qualifications of this section; or

(7) Who is a corporation in which an officer or director lacks any of the qualifications of this section.

CHAPTER 5. MASSAGE ESTABLISHMENTS

5-101. DEFINITIONS.

(1) "Massage" means the practice whereby a person, either by the hands or with a mechanical or electrical apparatus, administers to another person effleurage (stroking), friction (rubbing), petrissage (kneading), tapotement (percussion) and vibration (shaking or trembling), or variations of these, and the use of rehabilitative procedures involving the muscles by nonintrusive means and without spinal manipulation. The practice of massage may include the use of oil rubs, heat lamps, salt glows, hot and cold packs or tub, shower, steam or cabinet baths.

(2) "Massage Technician" means a person who is licensed as a massage technician by the State of Utah.

(3) "Massage Apprentice" means a person who is licensed as a massage apprentice by the State of Utah.

(4) "Massage Establishment" means any place where massages are given for hire.

5-102. BUSINESS LICENSE REQUIRED.

It is unlawful for any person or entity to operate a massage establishment without meeting the requirements of this Chapter and obtaining a business license as required by this Title.

5-103. QUALIFICATIONS OF THE LICENSEE.

Each individual desiring a massage establishment license shall be licensed by the State of Utah and possess all required licenses and/or permits required by the Tooele County Board of Health.

5-104. PROHIBITED ACTS.

The following acts are prohibited:

(1) It is unlawful for any person to practice or engage in or attempt to practice or engage in massage, without first being licensed by the State of Utah as a massage technician or massage apprentice.

(2) It is unlawful for any massage establishment to employ, for the purpose of performing massage, any individual who is not licensed by the State of Utah as a massage technician or massage apprentice.

(3) It is unlawful to serve, store, allow to be served, or allow to be consumed any alcoholic beverage on the licensed premises of a massage establishment.

(4) It is unlawful for a massage technician, massage apprentice, or any employee of a massage establishment to touch or offer to touch or massage the genitalia of customers.

(5) It is unlawful for the massage technician, massage apprentice, or any customer or employee of the massage establishment to display to any other person any specified anatomical area or to engage in any specified sexual activity, as defined in Section 1-101, while on the premises of the massage establishment.

5-105. DISPLAY OF LICENSES.

(1) Every massage establishment licensed under this ordinance shall display its massage establishment license in a conspicuous place on the premises.

(2) Every massage technician or massage apprentice, while on the premises of a licensed massage establishment, shall maintain in his or her possession or immediate presence his or her State massage technician or massage apprentice license.

CHAPTER 6. RESTAURANTS

6-101. DEFINITION.

"Restaurant" means any place where food and beverages are prepared, served and sold for human consumption on or off the premises.

6-102. QUALIFICATIONS

Each individual desiring a restaurant License shall first obtain all required licenses and permits required by the Tooele County Board of Health.

6-103. UNLAWFUL TO EMPLOY HELP UNDER EIGHTEEN YEARS OF AGE AFTER ONE A.M.

It shall be unlawful for any restaurant to employ any person under the age of eighteen years after the hour of 1:00 a.m. of any day.

6-104. MINORS PROHIBITED ON PREMISES AFTER ELEVEN P.M.

It shall be unlawful for any person holding a restaurant license to allow any person under the age of 16 to visit or remain on the licensed premises after the hour of 11:00 p.m. of any day unless such minor is accompanied by his parent or guardian.

CHAPTER 7. SERVICE STATIONS

7-101. DEFINITION.

"Service station" means a place of business where gasoline or any highly volatile fuels for motor vehicles or internal combustion engines, are sold or offered for sale at retail, and dispensed into the fuel tanks of such motor vehicles. A "service station" shall also include a private storage tank and dispensing of such products for the same purposes as those served by a service station, whether the storage is maintained for the use or benefit of the owner, lessees, agents or employees of either, or of any others.

7-102. QUALIFICATIONS

Each individual desiring a service station license shall first obtain any license and/or permit required by the State of Utah and/or County.

CHAPTER 8. AUCTIONS AND AUCTIONEERS

8-101. DEFINITIONS.

(1) "Auction House" means a business where property is sold on an ongoing basis by auction to the highest bidder.

(2) "Auctioneer" means a person who conducts an auction.

8-102. APPLICATIONS.

In addition to the information required by Section 1-105, applications for an auctioneers' license, or for a single auction, shall name the place of such auction; and such applications shall give the names of any employees, not to exceed two, who are to be authorized to conduct auctions under the authority of the license. Further, the application shall be accompanied by a true and correct inventory listing the articles proposed to be sold at said auction and setting forth a brief description of each article, whether the same is new or used, and setting forth a number for each such article which number shall correspond with the identifying number attached to the article as required by law.

8-103. CHARACTER OF APPLICANT.

A license shall not be issued to any person who has been convicted of a felony or of a crime involving theft or receiving stolen property within the last five years, or who has completed a sentence for any of the foregoing crimes within the last five years.

8-104. EMPLOYEES.

Every person licensed as an auctioneer may designate not to exceed two employees who may be authorized by him to conduct auctions. The employer shall be liable for any violation of the state, county or city ordinances committed by such employees in conducting an auction.

8-105. EXEMPTIONS.

Nothing in this article shall be held to apply to any public auction or sale made or conducted by a public officer by virtue of any power or authority contained in a mortgage or trust deed, nor to any auction held for charitable or benevolent purposes, nor to any church affair, festival or bazaar, nor to the sale of animals. Nothing in this chapter shall apply to a business which conducts auctions and an incidental part of its affairs such as towing impound yards, storage facilities, residential rental businesses, and banks.

8-106. RECORDS.

Before any sale is made at auction, the licensee must attach to each article to be sold, which has a retail value of Five Dollars or more, a card with an identifying number endorsed thereon, and each licensee shall maintain a list of all articles sold by him at auction at a retail price of Five Dollars or more, giving any identifying numbers or marks which may be upon the said articles; and indicating opposite the description of each article whether the same is new or used; showing the identifying number assigned to the article as required by this section, 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 the last sale shown on said list.

8-107. RECEIPTS.

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

8-108. REPLENISHING ITEMS FOR AUCTIONS.

When any merchant or auction house advertises or announces a public auction of any kind with a specific stock of merchandise for sale, such stock shall not be replenished without the prior permission of the license officer. No article of property shall be offered for sale or sold at public auction unless said article has been within the State of Utah for at least ten days prior to said sale or offer of sale.

8-109. FALSE BIDS.

A person shall not act in any sale by auction as a "by-bidder" or "booster" to bid in behalf of the auctioneer or owner, or to run up the price of the article to be sold, or make any false bid. The licensee, or if a corporation, one of the officers of the licensee, shall remain in continuous attendance during the auction. All sales and all persons participating in sales must truly and correctly represent at all times to the public attending such auction the facts in respect to the quality of the merchandise being sold.

8-110. DUTY OF AUCTIONEER.

It shall be the duty of all licensed auctioneers to receive articles to be offered for sale at auction, giving receipts therefor; and to sell as the owner directs. The auctioneer shall, at the close of such sale, deliver a fair account of same and pay the amount received for such articles to the person entitled thereto.

8-111. CONDUCT OF AUCTION.

All auctioneers are forbidden to conduct their sales in a disorderly manner or in such fashion as to constitute a public nuisance.

8-112. BOND REQUIRED.

Each licensee shall execute a bond to the City with corporate surety in the sum of $1,000.00, conditioned upon the faithful observance of all laws and ordinances of the City, and the honest performance of all duties required by this or other ordinance and for the protection of persons dealing with such auctioneer against fraud, deception and imposition; said bond to be approved by the City Attorney's Office and filed with the Business License Division.

CHAPTER 9. BICYCLE SHOPS

9-101. DEFINITION.

"Cycle" means a device upon which any person may ride, propelled by human power through a belt, chain or gears, and having one or more wheels in tandem or other arrangement. Cycles with wheels of at least 20 inches in diameter and frame size of at least 14 inches shall be subject mandatory to this Article. Others may be licensed by owner upon request.

9-102. STATE STATUTE ADOPTED.

The Utah State statute dealing with the licensing and registering of cycles by dealers found at U.C.A. Section 11-21-1, or any successor statute, is hereby adopted by reference, and all provisions thereof shall apply as though fully set forth herein.

CHAPTER 10. CHRISTMAS TREE BUSINESS

10-101. DEFINITIONS.

(1) "Christmas Tree" means a cut tree, usually fir or evergreen, but including any tree sold to be decorated and used as part of the Christmas celebration and commemoration.

(2) "Christmas Tree Business" means to sell, offer to sell or display for sale Christmas trees, to the public, for profit. Each location at which Christmas trees are sold, offered or displayed for sale shall be considered a separate business.

10-102. BUSINESS REQUIREMENTS.

It shall be unlawful for any person or entity to operate a Christmas tree business without meeting the requirements of this Chapter and obtaining a business license as required by this Title.

10-103. UNLAWFUL TO POSSESS OR SELL UNTAGGED TREES.

It shall be unlawful for any person to have in his possession for sale, or to sell or offer for sale in this City trees from within the public domain of the United States, or of the State of Utah, or from any private lands, within or without the State of Utah, without written authority having been first obtained from the United States, said State of Utah, or from the owner of such private lands, as the case may be, to cut and remove such trees. The trees shall have been officially tagged with a tag furnished or approved either by the United States Forest Service or the Department of Forestry of the State of Utah.

10-105. ZONING REQUIREMENTS.

A license to operate a Christmas tree business shall not be issued to any applicant who does not meet zoning requirements as may be applicable. The application shall be reviewed and approved by the Planning and Zoning Division prior to issuance of a license.

CHAPTER 11. EMPLOYMENT AGENCY

11-101. DEFINITION.

"Employment Agency" means a business opened, established or operating for the purpose of procuring or obtaining, for money or other valuable consideration, either directly or indirectly, any work, employment or occupation for persons seeking the same, or otherwise to engage in the business or in any way to act as a broker or go-between, between employers and persons seeking work.

11-102. LICENSED PREMISE.

A license shall not be granted to any person to conduct the business of an employment agency within the City to be exercised in any room or rooms or in connection with any room or rooms used as living or sleeping places by any family, or in which sleeping rooms are rented or meals served to the public or where any games, cards, pool or billiards are permitted and violation of this provision shall be grounds for revocation of license.

11-103. INDUSTRIAL COMMISSION LICENSE.

A duplicate copy of the license issued to the applicant by the Utah Industrial Commission shall be submitted at the time of making application and no license shall be issued until such state license shall have been granted and a copy of the same filed with the Business License Officer.

11-104. BOND.

Each applicant for license under the provision of this Chapter shall file a bond in the penal sum of $1,000.00 with two or more sureties to be approved by the City Attorney's Office. The bond shall be made payable to the City and shall be conditioned that the person applying for the license will comply with all laws and ordinances regulating employment agencies and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud, or deceit of the licensee or by any other violation of law or ordinances regulating employment agencies. If, at any time in the opinion of the City Attorney's Office, the sureties or any of them shall become irresponsible, the licensee shall, upon notice from the City Treasurer, give a new bond. Failure to give a new bond within 10 days after such notice shall operate as a revocation of such license, and the certificate of license shall be immediately returned to the City.

11-106. SENDING FEMALES TO HOUSES OF ILL-FAME PROHIBITED - REVOCATION OF LICENSE.

(1) It shall be unlawful for any licensee to knowingly send any female help to any place of bad repute, house of ill-fame, assignation house, or to any house or place of amusement kept for immoral purposes.

(2) In addition to criminal prosecution for violation of this section, the licensee shall have his or her license revoked.

11-107. REFERRALS ON BONA FIDE ORDERS ONLY.

Any licensee who sends out any help without having previously obtained a bona fide order therefore shall, for each and every offense, be subject to the penalties provided in Section 17-115.

11-108. TAKING COMMISSION IN ADVANCE UNLAWFUL.

It shall be unlawful for any licensee to receive, directly or indirectly, any money or other valuable consideration from any person seeking employment for any information or assistance furnished or to be furnished by the agent to such person, enabling or tending to enable such person to secure such employment, prior to the time such information or assistance is actually furnished.

11-109. COMMISSION TO BE RETURNED IF EMPLOYMENT NOT SECURED.

It shall be unlawful for a licensee to retain, directly or indirectly, any money or other valuable consideration received for any information or assistance described in Section 17-101. If the person for whom such information or assistance is furnished fails through no neglect or fault of his own to secure the employment regarding which such information or assistance is furnished, the money or consideration shall be returned forthwith by the agent to the payer of the same upon demand.

11-110. SCHEDULE OF FEES - FEE LIMITATIONS.

Every licensee shall file with the Industrial Commission a schedule of fees to be charged and collected in the conduct of its business, which schedule shall also be posted in a conspicuous place in the agency. Changes in the schedule may be made, but no change shall become effective until seven days after the date of refiling thereof with the Industrial Commission. No fee charged or collected shall be in excess of the fee as scheduled and in force at the time of the issuing of the contract for employment. In addition, no licensee shall charge any fee in excess of 25 percent of the amount actually earned in the employment during the first 30 days if such employment was ended during such 30-day period.

11-111. REGISTER OF EMPLOYERS TO BE KEPT.

Each licensee shall enter upon a register, to be kept for that purpose and to be known as an "employers' register," every order received from any corporation, company or individual desiring the service of any persons seeking work or employment, the name and address of the corporation, company or individual from whom such order was received, the number of persons wanted, the nature of the work or employment, the town or city, including street and number if any, where such work or employment is to be furnished and the wages to be paid.

11-112. REGISTER OF APPLICANTS TO BE KEPT - OPEN FOR INSPECTION.

Each licensee shall keep a register, to be known as "labor applicants' register," which shall show the name of each person seeking work or employment to whom information or assistance is furnished and the amount of the commission received in each such case therefor; the name of each person who, having received and paid for any information or assistance, fails to secure the employment regarding which such information or assistance is furnished, together with the reason why such employment was not by such person secured, and the name of each to whom return is made in accordance with the provisions of Section 17-109 of any money or other consideration, together with the amount or the value of consideration thus returned. The registers required by Section 17-111 and by this Section shall be open at all reasonable hours to the inspection of any peace officer of this State.

11-113. STATEMENT TO BE FURNISHED APPLICANTS.

Every person securing information from a licensee relative to hiring or engagement to work for others shall be furnished a written copy, in duplicate, of the terms of such hiring or engagement, by the licensee, showing the amount of commissions or fees paid to such licensee, the kind of service to be performed, the rate of wages or compensation, the length of time, if definite, and if indefinite, so stated, of such service, with full name and address of the person authorizing the hiring of such person. One of these copies shall be delivered to the person for whom the labor is to be performed and the other shall be retained by the person furnished with the information, and the licensee issuing the written copy of the conditions of service or employment shall make and keep in a book provided for the purpose a third copy of the same. Any licensee who fails to observe the provisions of this section shall be subject to the penalties provided in this Chapter.

11-114. DIVIDING OF FEES PROHIBITED.

Any employment agent sending out help to contractors or other employers of help and dividing the fees allowed under this Chapter with subcontractors and employers of help, or their foremen or anyone in their employ, shall be subject to the penalties provided in this Chapter.

11-115. FALSE STATEMENTS - FAILURE TO KEEP REGISTERS - OTHER VIOLATIONS - PENALTY.

If any licensee gives any false information or makes any misstatement or any false promises concerning any work or employment or occupation, or fails to keep the registers as prescribed in this Chapter, or shall willfully make any false entries in such register or shall violate any other provisions of this Chapter for which violation penalties are not hereinbefore provided, he shall for each and every offense be fined in any sum not exceeding $100, and in the discretion of the trial court, his license may be revoked.

11-116. RELIGIOUS OR CHARITABLE ASSOCIATIONS EXCEPTED FROM CHAPTER.

Nothing contained in this Chapter shall be construed so as to require any religious or charitable association which may assist in procuring situations of employment for persons seeking the same to obtain a license therefor.

11-117. COPIES OF LAWS TO BE POSTED.

The licensee shall cause two copies of this Chapter inclusive, printed in type of sufficient size to be easily read, to be conspicuously posted in each room used or occupied for the purpose of such employment agency.

CHAPTER 12. LOCKSMITHING

12-101. DEFINITIONS.

(1) "Locksmithing" means the installation, change, removal, construction, reconstruction, repair, adjustment, manufacture or duplication of locks, combination for sales, toolboxes, vaults and the duplication of keys.

(2) "Key Duplicating" means solely the duplication of any keys by mechanical or other means.

12-102. LICENSES.

(1) Each locksmithing license shall include the right to engage in the business of locksmithing and key duplicating.

(2) Each key duplicating license shall include only the right to engage in the business of key duplicating.

12-103. APPLICATION.

In addition to the information required by Section 1-105, the application for either a locksmithing license or key duplicating license shall include:

(1) A concise history of the applicant's employment;

(2) The applicant's name and length of residency in the State of Utah;

(3) The names and addresses of three character references; and

(4) A statement disclosing whether applicant has ever been convicted of a felony or misdemeanor and, if so, the nature of the offense and where and when it was committed.

12-104. POLICE INVESTIGATION.

(1) Applications shall be referred to the Police Department for their approval or denial.

(2) The Police Department shall deny an application only if the applicant has been convicted of any misdemeanor involving theft or any felony.

(3) The applicant shall also obtain a police I.D. card.

12-105. BOND REQUIREMENTS.

All licensees shall be required, before issuance of a license hereunder, to deposit with the City a surety bond in the penal sum of $1,000.00 for locksmithing licenses and $1,000.00 for key duplicating licenses, conditioned that said licensee shall faithfully observe and comply with all ordinances and laws pertaining to locksmithing and key duplicating and that such bond shall indemnify the City and any person injured or damaged by reason of the failure of the licensee to so comply.

12-106. LICENSE RECORDS.

Each licensee shall keep for a minimum of two years orderly and adequate records containing the following, which shall be open to inspection by a police officer at any reasonable time:

(1) The name and address of every person for whom a key is made from a key bearing the imprint "M" or "Master" or other recognizable mark indicating it is a master key, together with the name and address of every person for whom a locked automobile, building, structure, house, store, safe or vault is opened and the date of transaction.

(2) The name and address of every person for whom a lock or combination of a lock is changed and the date of the transaction.

12-107. EXCEPTIONS.

The requirements of this ordinance shall not apply to the following:

(1) Persons otherwise licensed by the City or the State of Utah as a contractor or carpenter who installs a lock as part of a door or remodeled door when the lock and key come from a manufacturer's stock and the installation does not involve adjustment or reconstruction of the lock.

(2) A person or an employee of a firm or corporation who is duly licensed to conduct such business in an area outside the jurisdiction of the City and who is not otherwise subject to the provisions of this law, when their work in the City does not involve, in a six-month period, more than one contract and one day to perform.

CHAPTER 13. LIQUIDATION AND FIRE OR DAMAGED GOODS SALES

13-101. DEFINITIONS.

(1) "Fire and Damaged Goods" applies to goods, wares and merchandise being offered for sale as a result of fire, smoke, water, wind, earthquakes, acts of God or other incidents of similar nature but does not apply to goods, wares and merchandise damaged in transit or by handling, dropping, nicking, scratching or other similar damage occurring within or incident to the regular conduct of business.

(2) "Liquidation" applies to goods that are being sold by a business that is selling out or closing down for any reason.

13-102. APPLICATION.

In addition to the information required by Section 1-105, the following information:

(1) A complete inventory of all goods, wares and merchandise, existing at the place of business immediately after the occurrence of the reason or cause of damage.

(2) The items of such inventory that will be the subject of the sale.

(3) An affidavit of the correctness of the inventory and the cause of the damage or reason for liquidation.

13-103. ISSUANCE AND DURATION OF LICENSE.

Upon the filing of the inventory and affidavit referred to in the preceding section, the Business License Division shall issue a license to conduct a liquidation or a fire and damaged goods sale which shall be effective for a 30-day period following its issuance.

13-104. RENEWAL OF LICENSE.

A license shall be renewed for an additional 30-day period providing a sworn affidavit and inventory showing the unsold goods, wares or merchandise is furnished to the license director, provided that the Business License Division is satisfied that such items were part of and included in the original inventory. In no event shall a license be more than twice renewed.

13-105. ADVERTISING RESTRICTIONS.

It shall be unlawful for any person to advertise a liquidation or a fire and damaged goods sale in other than a concise and clear manner so as not to deceive the public. All advertising shall state that such sale is not a termination of the entire business but is a special sale.

13-106. ADDING TO INVENTORY.

A permittee shall not add, cause to or permit to be added to the liquidation or the fire and damaged goods, any items not described in the original inventory.

13-107. RECORDS TO BE KEPT.

The permittee shall keep complete and suitable records and books of all sale items which shall be available at all times to inspection by the license director. The inventory list shall be revised at the close of business each day by the permittee so that such items as shall have been disposed of during such day shall be clearly marked. The records and inventory herein referred to shall be submitted to the license director upon request.

CHAPTER 14. MOBILE HOME PARKS AND TRAILER AND AUTO COURTS

14-101. DEFINITIONS.

(1) "Mobile Home" means a structure that is transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

(2) "Mobile Home Park" means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

(3) Trailer" means a furnished van drawn by a truck or automobile and used as a house or office when parked.

14-102. PERMANENT USE.

(1) It shall be unlawful for any person to maintain any mobile home used for human habitation, upon any plot of ground in the City unless the use complies with all zoning, building and other ordinances of the City.

(2) It shall be unlawful for any person to remove the wheels or other transporting device from any mobile home or otherwise to affix the mobile home permanently to the ground so as to prevent ready removal of such mobile home, unless a permit to do so is obtained as required for the construction of a new building. Any such alteration shall be construed as converting the mobile home into a building and subject to the requirements of the zoning and building ordinances.

(3) It shall be unlawful to occupy for sleeping or other residence purposes any mobile home which has been rendered immobile by the removal of wheels, or placing the same on a foundation, or on the ground, unless such mobile home in construction and location complies with the ordinances relating to the construction, wiring, plumbing, sewer facilities and other regulations applicable to single-family dwellings.

14-103. EXCEPTIONS.

Nothing in this ordinance shall be construed to prohibit the storage of any mobile home for any length of time when said mobile home is not used for living or sleeping purposes.

14-104. LICENSE FEE.

(1) Owners of mobile home parks shall pay the base fee and variable fees set forth in the Consolidated Fee Schedule.

(2) The base business license fee shall be paid at the time of application for a new or renewal license.

(3) The Mayor may, with the approval of the City Council, establish a payment plan or plans which allow the licensee to pay the per-unit fees in two, three, or four equal installment payments, made at regular intervals during the term of the license.

(4) Failure to timely make a payment required pursuant to a payment plan as described above may result in the suspension or revocation of the license and the imposition of penalty fees as set forth in this Title.

(5) Owners of mobile home parks who are required to license under this Section, whose application for a license is received between July 1 and July 30 of any year shall receive a license which expires on June 30 of the following year.

(6) All applicants for new or renewal licenses shall pay the unit fee set forth in the Consolidated Fee Schedule in effect at the time of the application or renewal.

CHAPTER 15. OUTDOOR ADVERTISERS

15-101. DEFINITION.

"Advertiser" means any person engaged in the business of placing, posting or painting any advertisements, notices or displays in or on any place for the purpose of outdoor advertising so that the resultant display is visible from any street, alley, sidewalk or other public place.

15-102. APPLICATIONS.

In addition to any other information required by Section 1-105, applications for advertiser licenses shall be accompanied by a list of all places, including billboard or natural structures, on which it is intended to place signs or advertisements. This list shall be amended from time to time by the licensee as the right to post or place advertisements or signs on additional places is acquired.

15-103. CONSENT OF OWNER.

It shall be unlawful to post any advertisement on any premises in the City without the consent of the owner of such premises. Such consent must be in writing and a copy must be provided to the City upon request.

15-104. REFUSE.

It shall be unlawful for any person engaged in outdoor advertising to permit any refuse resulting from this work to accumulate anywhere in the City except by placing it in properly established refuse receptacles. It shall be unlawful to permit any loose or flapping combustible materials to hang from or to be attached to any billboard, signboard or other place used for display or advertising purposes. All refuse resulting from the operating of this business must be carefully gathered and properly disposed of.

15-105. UNLAWFUL ADVERTISING.

It shall be unlawful for any person to post or display any advertisement of an obscene or immoral character, any advertisement tending to promote or cause a riot or breach of peace, any advertisement for an unlawful gathering, or advertisements of unlawful sales.

15-106. COMPLIANCE WITH APPLICABLE LAWS.

All outdoor advertisers shall comply with the applicable federal and state laws regulating the placement and display of outdoor advertising.

15-107. NAME OF ADVERTISER.

It shall be unlawful for any outdoor advertiser to carry on his business unless the name of such advertiser is attached, displayed or printed on all billboards or signboards used by him, or in any notice, placard or advertisement posted by him, in such lettering as to be visible from a distance of at least five feet from the notice or advertisement.

15-108. EXEMPTIONS.

The provisions of this ordinance shall not be construed to apply to the posting of a sign or notice by order of any court or by any public officer in the performance of his duties, nor shall this ordinance be deemed to prohibit election or real estate for sale signs so long as said signs are otherwise in compliance with applicable City and State regulations.

CHAPTER 16. SOLICITORS, PEDDLERS, TRANSIENT MERCHANTS

16-101. DEFINITIONS.

(1) "Registered Solicitor" means any person who has obtained a valid certificate of registration, as hereinafter provided, which is in the possession of the solicitor on his or her person while engaged in soliciting.

(2) "Residence" means:

(a) Every separate living unit occupied by residential purposes by one or more persons, contained within any type of building or structure.

(b) Continuous residence within Wendover City for at least 90 days.

(3) "Soliciting" means any one or more of the following activities:

(a) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever, for any kind of consideration whatever;

(b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character;

(c) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or

(d) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project.

16-102. APPLICATION -- REFERRAL TO POLICE DEPARTMENT

The Business License Division shall refer the application to the police, who shall fingerprint and photograph the applicant and obtain reports from the state and federal Departments of Justice of any record regarding the applicant which is available from said agencies.

16-103 LICENSE FEES.

The Application for a license under this chapter shall be accompanied by the daily base fee and any variable fees required by the Consolidated Fee Schedule.

16-104. SELLER'S BOND.

A bond shall be required of every licensee.

(1) File a surety bond in the amount of $1,000.00 to assure compliance with this Title and provisions of the Uniform Commercial Code, Section 70A-1-101, et seq. and the Uniform Consumer Credit Code, Section 70B-1-101, et seq., U.C.A. 1953, as amended. Said bond shall be forfeited to the City and the license revoked for violation of this Title or of the Uniform Consumer Credit Code or the Uniform Commercial Code provision cited above. This bond shall remain in force until at least the ninety-first day following the expiration of the license.

(2) Where a person or firm employs more than one solicitor or peddler, one surety bond may be posted in the sum specified in this section covering all such solicitors.

(3) The term "Fixed Place of Business" as used in this section means a place of business continuously maintained in the City for at least ninety days immediately preceding the filing of an application.

(4) If a person subject to the requirements of this Chapter is not a resident of the City as herein defined, the use of an address of a telephone answering service or of an address for mailing purposes for the establishment and maintenance of an office for mailing purposes or the establishment and maintenance of an office for making telephone calls or sending mail does not fulfill the residency requirement.

16-105. EXEMPT ACTIVITIES.

This Chapter does not apply to:

(1) Girl Scouts, Camp Fire Girls, Boy Scouts, Youth Sports Leagues and members of similar organizations when soliciting on behalf of such organization.

(2) Persons who represent a fixed place of business in the City who regularly make deliveries, normally not involving personal contact with customers for the purpose of making sales or obtaining orders, over an established route and who only occasionally make calls on persons residing within the area covered by such route for the purpose of obtaining additional customers for such regular deliveries. The foregoing provision is intended to cover only such persons as milkmen, newspaper boys and other persons engaged in substantially similar activities.

(3) Persons licensed and regulated under state law governing the insurance business.

(4) Persons licensed and regulated under state law governing the real estate business.

(5) Persons licensed and regulated under state law governing the securities and investment business.

(6) Persons soliciting charitable contributions on behalf of:

(a) A church or organization of churches of any denomination, or any nonprofit agency duly constituted by a church, churches or denominations, to carry on religious education, interdenominational operations, or the like.
(b) An institution of learning authorized by the State to grant degrees.
(c) A hospital licensed by the State.
(d) Any institution licensed by the Utah Department of Public Welfare.
(e) Any nonprofit corporation or nonprofit voluntary unincorporated association organized for charitable purposes.

(7) Persons who go from private residence to private residence for political purposes or for the purpose of influencing legislation.

(8) Businesses regulated by the Interstate Commerce Act, provided, that each solicitor, canvasser or peddler employed by said business carry sufficient identification on his person at all times while engaged in solicitation and canvassing, in order to enable authorized persons to determine that he is regulated by Interstate Commerce.

(9) Farmers or their agents, servants or employees selling or soliciting orders for the sale of farm products grown or to be grown or produced by them.

(10) Businesses which solicit or obtain orders for the sale of goods or who sell goods, which are purchased solely for resale.

16-106. LICENSE TO BE CARRIED DURING SOLICITATION OR PEDDLING.

While soliciting from private residence to private residence, the solicitor's permit shall be carried on the person of the solicitor who, upon demand, shall show such permit to any person authorized to enforce this ordinance. The same is required of a peddler doing business.

16-107. NOISE.

It shall be unlawful for any peddler licensed or registered under the provisions of this Chapter to sound a gong, blow a whistle or make any other loud noise to attract customers; provided that such peddler may ring a small bell or play soft music provided that such ringing or playing does not emit sound audible to the human ear at a distance greater than one block from its source.

16-108. USE OF STREETS.

(1) It shall be unlawful to sell, offer to sell or display for sale retail merchandise from or on motorized vehicles on public streets without a valid business license and except as authorized by this Title.

(2) Each person or business selling, offering to sell or displaying for sale retail merchandise from or on motorized vehicles on public streets shall abide by the following conditions and requirements. Failure to comply may result in the suspension or revocation of a business license or Police I.D. card, and is a class B misdemeanor:

(a) The motorized vehicle shall have a clearly-audible backup warning device that activates whenever the vehicle is shifted into reverse gear.
(b) The motorized vehicle shall have a convex mirror mounted on the front of the vehicle so that the driver, in a normal driving position, can see the area in front of the vehicle that is obscured by the hood.
(c) The motorized vehicle shall have a flashing yellow beacon on the roof of the vehicle that is visible from all sides of the vehicle. This beacon shall be activated whenever merchandise is being sold, offered for sale or displayed for sale.
(d) The motorized vehicle shall have an operable swing-arm attached to its left side. This swing-arm shall be of a type, size and description approved by the City, and shall be activated whenever the vehicle stops to sell, offer to sell or display merchandise on a public street.
(e) The motorized vehicle shall be prohibited from pulling any type of trailer.
(f) If the merchandise being sold, offered for sale or displayed for sale includes any item intended for human consumption, the vehicle shall be inspected and approved by the Tooele County Health Department on a yearly basis.
(g) Retail merchandise may be sold, offered for sale or displayed for sale from or on motorized vehicles on public streets only between the hours of one hour after sunrise and one hour before sunset. Sunrise and sunset shall be determined on any particular day by the times listed that day in any major newspaper published in Salt Lake County, Utah.
(h) Retail merchandise may not be sold, offered for sale or displayed for sale from or on motorized vehicles on public streets where the speed limit exceeds 25 miles per hour.
(i) The operator of the motorized vehicle shall not sell to any person standing in the roadway.
(j) The operator of the motorized vehicle shall sell, offer to sell or display for sale retail merchandise only when the vehicle is completely stopped and lawfully parked, and shall sell only from the rear or side of the vehicle nearest to the curb or edge of the roadway.

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

(l) Each applicant for a license or renewal under this Section shall submit, with its application, evidence of general liability insurance in an amount not less than $500,000. The applicant must submit to the City a certificate of insurance that provides that the policy cannot be cancelled prior to giving the City at least 10 days written notice of cancellation.

(m) The motorized vehicle and operator must comply with all other requirements of this Chapter and any other requirements of ordinance or statute that may be applicable.

(3) Each person selling, offering to sell or displaying for sale retail merchandise from or on motorized vehicles on public streets shall obtain a Wendover City Police I.D. card prior to beginning operation. The City may deny, suspend or revoke a Police I.D. card and license, if applicable, if the applicant or licensee:

(a) Has violated any provision of this Title;

(b) Has been convicted of a felony or has completed serving a sentence for a felony conviction (whichever is most recent) within five years, or a misdemeanor within the last three years involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor, theft, possession of stolen property or any other criminal act which might relate to the employment of the applicant; or

(c) Has received a moving traffic violation within the last 12 months.

(4) The prohibitions of this Section shall not be construed to prohibit vehicles from carrying business markings or advertising not otherwise prohibited by law, nor shall they prohibit delivery of merchandise which was not sold or purchased on public streets.

16-108.5. SALE ON PRIVATE PROPERTY.

Sales on private property shall be made only with the permission of the property owner or occupant.

16-109. PROHIBITED NEAR SCHOOLS, PARKS OR CHURCHES.

It shall be unlawful for any peddler or solicitor to stand or station himself, or to drive any vehicle for the purpose of selling his wares and merchandise or to sell or offer to sell any of his wares or merchandise within 500 feet of any public school property boundary in Wendover City between the hours of eight a.m. and four p.m. on all days when school is in session, or within 250 feet of any property boundary of a public park, a playground or church.

CHAPTER 17. PAWN SHOPS, SECONDHAND DEALERS, ETC.

17-101. RECORDS TO BE MAINTAINED - AVAILABILITY TO PEACE OFFICERS

Pawnbrokers and dealers in secondhand goods shall keep records containing a description of all articles received by them, the amounts paid therefor or advanced thereon, a general description of the person from whom received, together with his home and address and the date of the transaction. Such records shall at all reasonable times be accessible to any peace officer who demands an inspection thereof, and any further information regarding such transaction that he may require shall be given by pawnbrokers and secondhand dealers to the best of their ability. In cities of the first and the second class at the close of each day's business pawnbrokers shall mail a copy of such records to the sheriff of the county in which they are located.

17-102. COMPUTER REPORTING OF INFORMATION.

The Police Department is authorized to transfer the information received pursuant to this Chapter into a computer information system and to report the information in such forms as the Police Department may determine is useful for law enforcement purposes.

17-103. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

In addition to the reasons provided in Sections 3-101 and 3-102, a license may be denied, suspended or revoked if:

(1) A similar license issued to the dealer has been suspended, revoked, or refused in another jurisdiction for a reason which would justify such action under this section.

(2) Any officer, manager, agent, or employee of the individual or dealer has violated or is attempting to violate any provisions of this Chapter unless the person or dealer:

(a) Had no knowledge of the wrongful conduct and in the exercise of reasonable diligence could not have known of the conduct; and

(b) Was unable to prevent the violation or attempted violation with the exercise of reasonable diligence.

(3) The person or dealer has been convicted of theft or receiving stolen property on one or more occasions or has been released from incarceration for any conviction of theft or receiving stolen property, whichever is most recent, within the last five years.

CHAPTER 18. SALE AND USE OF FIREWORKS

18-101. DEFINITIONS. (RESERVED) (SEE STATE LAW ON FIREWORKS)

18-102. SALE, DISCHARGE AND POSSESSION OF FIREWORKS RESTRICTED.

It is a Class "B" misdemeanor for any person to sell or offer for retail sale, or to discharge, or to have in their possession any fireworks in Wendover City, other than those permitted under the law of the State of Utah.

18-103. APPLICATION TO SELL FIREWORKS.

(1) In addition to the information required by Section 1-105, all applications for a license to sell fireworks shall:

(a) Set forth the proposed location where the fireworks are to be sold and whether the location is a temporary stand or in a permanent structure.

(b) Be accompanied by certificates of insurance evidencing liability coverage in the minimum amounts of $200,000/$400,000 and property damage coverage in the minimum amount of $200,000 and naming the City as an additional insured. The certificates of insurance shall state that the City will be given 10 days written notice prior to any cancellation of the insurance by the insurance company.

(c) Be accompanied by a certificate of insurance evidencing products liability coverage in a minimum amount of $500,000.

(d) Be accompanied by a copy of the applicant's Utah Sales Tax License.

(2) Applications shall be made a minimum of 3 working days prior to the time when the applicant wishes to begin selling fireworks within the time constraints set forth in this Chapter.

18-104. POSTING OF LICENSE.

(1) Licenses issued pursuant to this Chapter shall be posted in a conspicuous place in a temporary stand and in a conspicuous place in the vicinity of the fireworks in a permanent structure.

(2) The license shall be available for presentation upon request to duly authorized officials.

18-105. REGULATIONS GOVERNING ALL RETAIL SALES LOCATIONS.

(1) All retail sales locations shall be under the direct supervision of a responsible person who is 18 years of age or older. A salesperson shall remain at the sales location at all times unless suitable locking devices are provided to prevent the unauthorized access to the merchandise by others, or the merchandise is removed.

(2) Fireworks shall not be sold to any person under the age of 16 years, unless accompanied by an adult.

(3) All retail sales locations shall be kept clear of dry grass or other combustible material for a distance of at least 25 feet in all directions.

(4) Storage of fireworks for sale shall not be located in residential areas.

(5) Smoking shall not be permitted within 50 feet of any fireworks, either on display for retail sale or being stored. "Smoking prohibited within 50 feet" or similarly worded signs shall be conspicuously posted at all sales and storage locations. Sign lettering shall be not less than 2" high with a minimum 3/8" stroke on a contrasting background.

(6) A sign, clearly visible to the general public, shall be posted at all fireworks sales locations, indicating the legal dates for discharge of fireworks as set forth in this Chapter. Sign lettering shall be not less than 1" high with a minimum 3/16" stroke on a contrasting background.

(7) All retail sales locations shall be equipped with an approved portable fire extinguisher having a combined rating of at least 2A 10BC.

(8) No amount of retail storage or retail sales of fireworks shall, by its presence, create a distinct hazard to the life or safety of the customer, employee or property.

(9) All retail fireworks sales shall be located in permanent structures or temporary stands, as defined in this Chapter.

18-106. PERMANENT STRUCTURES.

(1) Display of fireworks inside permanent structures shall be subject to the following restrictions:

(a) Up to 250 pounds of fireworks, display of fireworks is unrestricted.

(b) From 251 pounds to 500 pounds of fireworks, display of fireworks must be within constant visual supervision.

(c) Above 500 pounds of fireworks, display of fireworks must be constantly attended by a sales person.

(2) In permanent structures, the area where fireworks are displayed or stored shall be at least 50 feet from any flammable liquid or gas, or other highly combustible material. Fireworks shall not be stored, including stock for sale, near exit doorways, stairways, or in locations that would impede egress.

(3) Fireworks shall be stored, handled, displayed and sold only as packaged units inside permanent structures.

18-107. TEMPORARY STANDS.

(1) Temporary stands shall meet the requirements of the latest edition of the Uniform Building Code adopted by the City. Each licensee shall pay the inspection fee and shall be inspected prior to any sales.

(2) Each temporary stand shall have a minimum of two, approved exit doors, which swing out at opposite ends of the stand. Door locking devices, if any, shall be easily released from the inside without special knowledge, key or effort.

(3) Each temporary stand shall have a minimum three-foot wide unobstructed aisle running the length of the stand, inside and behind the counter.

(4) The pass-through openings for temporary stands shall be arranged to permit the customer to view the merchandise for sale but prevent the touching or handling of non-prepackaged fireworks by the customer.

(5) Temporary stands shall be located in properly zoned areas, at least 100 feet from other temporary stands, LPG, flammable liquid or gas storage and dispensing units.

(6) If the temporary stand is used for the overnight storage of fireworks, it shall be equipped with suitable locking devices to prevent unauthorized entry.

(7) Temporary stands shall not be illuminated or heated by any device requiring an open flame or exposed heating elements. All heaters and light devices shall be approved by the authority having jurisdiction. Permanent or temporary wiring and the use of extension cords are prohibited.

(8) The general public shall not be allowed to enter a temporary stand.

(9) A person shall not be allowed to sleep in a temporary stand.

(10) A temporary stand shall be removed within seven days after the sales period has ended, as provided in this Chapter.

18-108. SEIZURE OF FIREWORKS - SUSPENSION OR REVOCATION OF LICENSE.

(1) Fireworks sold or offered for sale in violation of this Chapter may be seized and destroyed and the license of the person selling or offering fireworks for sale may be suspended or revoked.

(2) Other violations of this Chapter may be grounds for seizure of the fireworks and suspension or revocation of the license.

18-109. DAYS WHEN FIREWORKS MAY BE SOLD.

Fireworks may be sold on or between June 20 and July 25; on or between December 20 and January 2; and 15 days before and on the Chinese New Year.

18-110. DAYS WHEN FIREWORKS MAY BE DISCHARGED.

Fireworks may be discharged three days prior to, on the day of, and three days following July 4, July 24, January 1, and the Chinese New Year.

18-111. DISCHARGE OF FIREWORKS RESTRICTED.

(1) It shall be unlawful to discharge any fireworks within 100 feet of temporary stands, LPG, flammable liquid, or gas storage and dispensing units.

(2) It shall be unlawful to discharge any fireworks within 20 feet of any residence, dwelling or other structure.

18-112. BUSINESSES EXEMPT FROM THIS CHAPTER.

This Chapter does not apply to the product inventories of fireworks manufacturers, importers, distributors or wholesalers designed for shipment directly out of the State.

CHAPTER 19. AUTO WRECKERS

19-101. DEFINITIONS.

"Auto Wrecker" means the business of wrecking or dismantling old, used or secondhand automobiles or other motor vehicles and adding or employing the accessories or parts thereof in equipping, repairing or rebuilding motor vehicles, or storing, selling or otherwise disposing of such accessories or parts.

19-102. SALE BY MINORS RESTRICTED.

It shall be unlawful for a licensee to purchase or receive from persons under the age of 18 years any motor vehicle whatsoever without the written consent of a parent or guardian.

19-103. RECORDS.

Each licensee shall keep a permanent daily record of motor vehicles purchased, including an adequate description of the name and residence of the person from whom the article was purchased, the serial number of the motor vehicle, the date and hour of the purchase and the price paid. The record shall be available at all reasonable times to the inspection of authorized officers. No entry shall be changed, erased, obliterated or defaced.

19-104. FENCING.

Each licensee's business shall be completely enclosed by a minimum of a six-foot high fence of sturdy and durable construction.

CHAPTER 20. INTERIOR BUSINESSES

20-101. INTERIOR BUSINESS LICENSES.

(1) The following definitions are adopted for purposes of this Chapter and this Title:

(a) "Primary Licensee" means a licensed business which provides space within the building (or other) confines of his or her place of business to an "interior licensee" on a rental, profit sharing, fee sharing or splitting, or other similar basis.

(b) "Interior Business" or "Interior Licensee" means a person, not an employee of a licensee, who conducts or operates a business within the building (or other) confines of a Primary Licensee as an independent contractor under any arrangement where he or she leases or uses space controlled by the Primary Licensee on a rental, profit sharing, fee sharing or splitting, or other similar basis, and utilizes the trade or business name of the Primary Licensee. An Interior Licensee may not have employees of his/her own. Examples of such a business include, but are not limited to, a salon or studio where an independent contractor (who is not paid wages by the Primary Licensee and is responsible for his or her own taxes, etc.) rents a booth or space from a Primary Licensee.

(2) An Interior Business, as defined in this Title, shall apply for an interior business license. Interior business applicants and licensees shall be subject to all requirements of this Title, except that the fee for an interior business license shall be one quarter of the regular general business license base fee. If a variable or regulatory fee applies to the business of the interior business applicant, the entire variable and/or regulatory fee shall be paid in addition to the base license fee.

(3) The following businesses are not eligible for interior business licenses:

(a) Home occupations;

(b) Any business which requires a conditional use permit or temporary use permit.

(4) Responsibilities of Primary Licensee. A Primary Licensee shall:

(a) Provide the City with reasonable information relating to the operations of any Interior Licensee operating at his or her premises including but not limited to providing the name, address and telephone number of an Interior Licensee, and a description of the nature of the services provided and/or products sold;

(b) Not knowingly allow an Interior Licensee to engage in any unlawful act or in any act which violates this Title while on the premises of the Primary Licensee.

(5) In the event of a conflict between this section and any specific regulation or fee contained in this Title or the Consolidated Fee Schedule, the more specific regulation or fee shall apply.

CHAPTER 21. RENTAL DWELLING UNITS

21-101. DEFINITIONS.

(1) "Multiple Family Dwelling Unit" shall mean any buildings or apartment buildings so arranged, designed, built, rented, loaned, let or hired out to be used or occupied as the home, residence or dwelling unit of four or more families living independently of each other. This definition includes four-plexes, even if the owner lives in one of the units.

(2) "Rental Dwelling Unit" shall mean any individual dwelling unit that is rented, loaned, let or hired out to be used or occupied as a home, or residence.

(3) "Owner" shall mean the person having ownership. "Person" includes any individual, group of individuals, partnership, corporation, association or other legal entity.

(4) "Place of Business." As used herein and also for purposes of Section 1-102(1) the definition of the words "place of business" shall not include separate rental dwelling units.

21-102. LICENSE REQUIRED.

(1) Every owner of a multiple family dwelling unit or of three or more rental dwelling units shall obtain and maintain current a business license and pay the base fee and variable fees as set forth in the Consolidated Fee Schedule.

(2) If there is more than one owner, including purchases under contract, each owner shall be jointly and severally liable to pay the business license fee.

21-103. EXCEPTION.

Every owner of less than three rental dwelling units shall be exempt from licensing under this Title.

21-104. PENALTY.

Any person or party who violates the provisions of this Chapter shall be deemed guilty of a Class "B" misdemeanor.

21-105. LICENSE FEES.

(1) Owners of multiple family dwelling units or rental dwelling units shall pay the base fee and variable fees set forth in the Consolidated Fee Schedule.

(2) The base business license fee shall be paid at the time of application for a new or renewal license.

(3) The Mayor may, with the approval of the City Council, establish a payment plan or plans which allow the licensee to pay the per-unit fees in two, three, or four equal installment payments, made at regular intervals during the term of the license.

(4) Failure to timely make a payment required pursuant to a payment plan as described above may result in the suspension or revocation of the license and the imposition of penalty fees as set forth in this Title.

(5) Owners of multiple family dwelling units or rental dwelling units who are required to license under this Section, shall receive a license which expires on June 30 of the following year.

(6) Effective immediately, all applicants for new or renewal licenses shall pay the unit fee set forth in the Consolidated Fee Schedule in effect at the time of the application or renewal.

CHAPTER 23 HOME OCCUPATIONS

23-101. HOME OCCUPATIONS.

A business license application shall be filed by any person who conducts a business primarily from the place of his or her residence. Said application shall be accompanied by the fees required by the Consolidated Fee Schedule.

23-102 UNLAWFUL TO OPERATE WITHOUT A LICENSE.

It shall be unlawful for a person to operate a business primarily from his or her place of residence without first having a business license issued by the City.

CHAPTER 22. JUNIOR BUSINESSES

22-101. JUNIOR BUSINESS LICENSES.

A business license application shall be filed by any person under the age of eighteen (18). Said application shall be accompanied by the license fees required by the Consolidated Fee Schedule for junior businesses. Any operator of a business, under the age of eighteen years shall in all respects comply with the requirements of this title.

CHAPTER 24. HOTELS AND MOTELS.

24-101. HOTELS AND MOTELS.

(1) Definition. As used in this chapter, a "hotel" or "motel" means an establishment that provides lodging and/or sleeping accommodations, available to the general public.

24-102. LICENSE REQUIRED -- FEES.

(1) It shall be unlawful to conduct or operate a hotel or motel without first having obtained a license therefore and without complying with all other regulations of this title, and any applicable requirements of the State of Utah or Tooele County.

(2) The license application shall be accompanied by the base license fee, plus an additional variable fee based upon the number of units times the per unit fee, as established by the Consolidated Fee Schedule.

24-103. UNLAWFUL ACTIVITIES.

It shall be unlawful to knowingly permit any violation of any ordinance or law on or in any hotel or motel.

CHAPTER __ ALCOHOLIC BEVERAGE LICENSES [RESERVED]

CHAPTER __ EMPLOYEES FOR ALCOHOL ESTABLISHMENTS [RESERVED]

CHAPTER __ SEXUALLY-ORIENTED BUSINESSES [RESERVED]

CHAPTER __ PUBLIC RECREATION [RESERVED]

CHAPTER __ TAXI SERVICES [RESERVED]

CHAPTER __ AMBULANCES AND SPECIAL TRANSPORTATION [RESERVED]

CHAPTER __ ALARM SYSTEMS [RESERVED]

CHAPTER __ AMUSEMENT HALLS AND ARCADES [RESERVED]

CHAPTER __ TOWING SERVICES [RESERVED]

CHAPTER __ CIVIL RIGHTS [RESERVED]

CHAPTER __ PRIVATE INVESTIGATORS [RESERVED]

EXHIBIT "B"

WENDOVER CITY CONSOLIDATED
FEE SCHEDULE

WENDOVER CITY CONSOLIDATED FEE SCHEDULE

1-101. CONSOLIDATED FEE SCHEDULE -- TITLE, PURPOSES AND ADOPTION OF FEES.

(1) Title. This Chapter shall be known as the "Wendover City Consolidated Fee Schedule."

(2) Purposes. The purposes of this Chapter are to: (a) create and designate fees to be applied for City services; (b) to consolidate all fees and charges of the City into a single ordinance or resolution; and ultimately, (c) to maintain a current schedule of all fees of the City in a format that is easily accessible by City employees and those who work with the City.

(2) Adoption of Fees. The fees listed in this Chapter are hereby imposed as set forth herein. The fees described herein may be changed from time to time by ordinance or resolution of the Wendover City Council.

1-102. ADMINISTRATION.

(1) City Recorder:

(a) Compiling records in a form other than that maintained by City: actual cost and expense for employee time or time of any other person hired and supplies and equipment; minimum 1/2 hour charge of . . . $10 per request

(b) Copy of record . . . . . $0.25/printed page

(c) Certification of record $2/certification

(d) Postage . . . . . actual cost to City

(e) Other costs allowed by law . . . . . actual cost to City

1-103. ANIMAL CONTROL FEES [RESERVED -- SEE OTHER CITY ORDINANCES AND REGULATIONS]

1-104 BUILDING INSPECTIONS [RESERVED -- SEE OTHER CITY ORDINANCES AND REGULATIONS]

1-105 BUSINESS LICENSES

(a) Alcoholic beverage license fees: [RESERVED -- SEE OTHER ORDINANCES AND REGULATIONS]

1. Beer licenses:

a. Class A beer license . . . . . $

b. Class B beer license . . . . . $

c. Class B liquor consumption license . . . . . $

d. Class C beer license . . . . . $

e. Class D beer license . . . . . $

f. Private club . . . . . $

(b) Business license fees:

1. Business license transfer fee -- applies to both changes in ownership or location $25

2. Penalty fees for any business operating without a license: [WAIVED THROUGH NOVEMBER 30, 1994]

a. Prior to December 1, 1994, the penalty fee to be paid in addition to the license fees shall be waived.

b. Effective December 1, 1994, the penalty fee shall be 100 percent of the license fees for the first year, and the business shall pay an additional penalty for each year or portion of a year in which the business operated without a license.

c. The Mayor may reduce or waive the penalty fees to be paid by a business operating without a license one time per calendar year, for a period not to exceed one month, for the purpose of encouraging unlicensed business to properly license.

3. Business license inspections to ensure compliance with City building and fire codes (SEE OTHER ORDINANCES AND REGULATIONS)

4. Base fees:

a. General base licensing fee for all businesses . . . $100

b. Home occupations:

i. Day care/Pre-school center operated as a home occupation: $50

ii. Home occupation, $2,000 or more gross income: $100

iii. Home occupation, under $2,000 gross income: $50

c. Solicitors/Peddlers/Transient merchants/ door to door merchants per day $100

d. Interior Business $25

e. Junior Businesses: $10

5. Variable fees in addition to base fees:

a. Hotel, Motel, R.V. Park and similar public accommodations that are occupied for periods of less than 30 days:

Base licensing fee of $100.00 plus $5.00 per unit.

b. Rental Dwelling Units: Base licensing fee of $100.00 plus $5.00 for each unit.

6. Regulatory fees in addition to base fees:

a. Sexually-oriented businesses/Employees of sexually-oriented businesses:

In addition to the base business license fee and any other applicable variable fee, the following fees shall be charged to sexually-oriented businesses and employees of sexually-oriented businesses:

i. Outcall services $1,000

ii. Outcall services employees (Except (vii) below) $250

iii. Semi-nude dancing agencies and semi-nude entertainment businesses $500

iv. Semi-nude dancers/performers $250

v. Adult businesses $500

vi. Adult business employees . . $50

vii. Outcall business employees who do not perform any services outside the licensed premises; semi-nude dancing agency employees or semi-nude entertainment business employees who are not performers or dancers $100

viii. Initial police background investigation fee - - required of all applicants for a sexually-oriented business license and all employees, performers, or dancers at the time of an initial application) $250

(4) Ordinance Enforcement: [RESERVED -- SEE OTHER CITY ORDINANCES AND REGULATIONS]

(a) Abatement of injurious and noxious real property and unsightly or deleterious objects or structures . . . . . .

(5) Planning and Zoning Division: [RESERVED -- SEE OTHER CITY ORDINANCES AND REGULATIONS]

(a) Administrative determination . . . . . .

(b) Board of Adjustment: Variance, non-conforming use, conditional use appeal, appeal of Zoning Administrator decision . . . . . .

(c) Conditional use:

1. Conditional use (new) . . . . . .

(d) Home occupation (RESERVED)

1. Major home occupation reviewed by Planning Commission . . . . . .
2. Minor home occupation not reviewed by Planning Commission . . . . . .
3. Change of address (existing home occupation) . . . . . no charge

(e) Maps and Publications (RESERVED)

1. Street map . . . . . .
2. Zoning map . . . . . .
3. Master plan . . . . . .
4. Subdivision ordinance . . . . . .
5. Zoning ordinance . . . . . .

(f) Master plan/Zoning amendment City Council appeals (RESERVED) . . . . . .

(g) Master plan/Zoning district amendment (RESERVED) . . . . . .

(h) Master plan amendment for text and/or map (RESERVED) . . . . . .

(i) Permitted use (excluding single family dwellings) (RESERVED) . . . . . .

(j) Temporary use (RESERVED) . . . . . *

*EXEMPTION: Any person applying for a temporary use, who is engaged in carrying on that use solely for religious, charitable, eleemosynary or the types of strictly non-profit purposes which are tax exempt in such activities under the laws of the United States and the State of Utah, shall be exempt from the payment of this fee. This fee shall not be imposed upon 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.

(k) Planned unit development: (RESERVED)

1. Preliminary . . . . . .
2. Final . . . . . .

(l) Sign impound fee (RESERVED) . . . . . .

(m) Streets: (RESERVED)

1. Dedication . . . . . .
2. Street name change application . . . . . .
3. New street sign . . . . . .
4. New sign with post . . . . . .
5. Street vacation . . . . . .

(n) Subdivisions: (RESERVED)

1. Subdivision plat amendment . . . . . .
2. Metes and bounds (industrial/commercial/ agricultural lots over 2 acres) . . . . . .
3. Lot split (2 lots minimum) . . . . . .
4. Preliminary plat processing fee . . . . . .
5. Final plat processing fee . . . . . .
6. Minor subdivision (9 lots or less on a dedicated street) . . . . . .
7. Parks and recreation fee . . . . . .

(o) Text change . . . . . .

(p) Zoning amendment . . . . . .

1-104. CITY FINANCE MATERIALS.

(1) Copies of annual budget $25

(2) Copies of annual audit report $5

(3) Copies of any documents not previously listed $0.10/page

(4) Interest charged on other receivables or any other unpaid obligations due Wendover not paid within 30 days from the date of invoice . . . . . 18% on unpaid balance, unless otherwise regulated by ordinance or resolution.

1-2-105. FIRE DEPARTMENT INSPECTION FEES. [RESERVED]

(1) Automobile wrecking yards . . . . . .
(2) Burn permits . . . . . .
(3) Carnivals and fairs . . . . . .
(4) Fire protection systems:
    (a) Alarm systems . . . . . .
    (b) Fire sprinkler systems . . . . . .

(5) Fireworks displays . . . . . .
(6) Fireworks location (Fire Department and Building Inspection Division) . . . . . .
(7) Hazardous materials emergency and negligently caused fires; collection of expenses under City Code §§ 16-6-102 and 16-6-104 . . . . . .
(8) Hazardous materials permit (sliding scale based on type of materials and quantity) . . . . . .
(9) High piled storage . . . . . .
(10) Liquified petroleum gas (private use) . . . . . .
(11) Lumber yards . . . . . .
(12) Plan reviews (fire code related reviews; includes on-site fire inspection) . . . . . .
(13) Repair garages . . . . . .
(14) Reports . . . . . .
(15) Spraying or dipping operations . . . . . .
(16) State licensing inspections:
    (a) Day cares . . . . . .
    (b) Hospital inspection . . . . . .
    (c) Care facilities inspection . . . . . .
(17) Storage tanks, above ground:
    (a) Per site . . . . . .
    (b) Over two tanks . . . . . .
    (c) Temporary tank . . . . . .
(18) Storage tanks, underground:
    (a) Installation . . . . . .
    (b) Removal . . . . . .
(19) Woodworking plant . . . . . .

1-106. LAW DEPARTMENT. [RESERVED -- SEE OTHER CITY ORDINANCES AND REGULATIONS]

(1) Copies of accident reports, other police reports, Animal Control reports
(2) Purchase of video tapes for discovery . . . . . .

1-107. POLICE DEPARTMENT. [RESERVED -- SEE OTHER CITY ORDINANCES AND REGULATIONS]

(1) Alarm system installation permit . . . . . .
(2) Bicycle license . . . . . .
(3) Citizen's criminal check of own record . . . . . .
(4) Copies of accident and police reports . . . . . .
(5) Fingerprinting . . . . . .
(6) Police I.D. . . . . .
(7) Visa criminal check . . . . . .
(8) Work cards . . . . . .

1-108. PUBLIC WORKS DEPARTMENT. [RESERVED -- SEE OTHER CITY ORDINANCES AND REGULATIONS]

(1) Concrete inspection permits:
  (a) Curb and gutter . . . . . .
  (b) Sidewalk . . . . . .
(2) Drainage permit fees:
(3) Excavation permits:
  (a) Asphalt/Concrete Cuts/Unimproved surface . . . . . .
    1. Minimum fee for cuts in paved surfaces more than 3 years old . . . . . .
    2. Minimum fee for cuts in paved surfaces 3 years old or less . . . . . .
  (b) Minimum fee for unimproved surface cuts . . . . . .
(4) Plan review . . . . . .
(Fees will be assessed for plan reviews in which the developer or engineer has not made appropriate modifications requested in the previous review.)
(5) Property bond processing fee . . . . . .
  (a) Amendment of original agreement . . . . . .
(6) Monthly residential waste collection fee:
  (a) Single-family dwelling unit . . . . . .
  (b) Duplex-family dwelling unit . . . . . .
  (c) Additional container . . . . . .
  (d) Maximum household income allowable to qualify a resident for residential waste collection fee abatement . . . . . .
(7) Park reservation and scheduling fee . . . . . .
  (a) Cleaning deposit . . . . . .

1-109. MAYOR AND CITY COUNCIL AUTHORITY TO AMEND CONSOLIDATED FEE SCHEDULE.

(1) The Mayor, with the advice and consent of the City Council, shall have the authority to impose new fees as the Mayor deems appropriate or necessary. Said fees may be implemented by ordinance or resolution duly adopted by the City Council.

(2) Any fee added to or amended under this Section shall be effective as specified in the ordinance or resolution implementing the fee. In the event of any change to or addition of any fee, the Mayor shall cause the Consolidated Fee Schedule on file with the office of the City Recorder to be amended to include the new fee.

1-110. OTHER FEES.

It is not intended by this Chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other resolutions, ordinances, or laws, except to effect modification of the fees reflected herein. The fees listed in the Consolidated Fee Schedule supersede present fees for the services specified, but all fees not listed herein continue to remain in effect. Where this Chapter imposes a higher fee than is imposed or required by existing provisions of resolution, ordinance, or law, the provisions of this Chapter shall control.

WEND-ORD\FEE-SCHE