

**ORDINANCE NO. 2015-12**

**AN ORDINANCE AMENDING THE VERNAL CITY MUNICIPAL CODE, CHAPTER 5.60 - RESIDENTIAL SOLICITATION.**

**WHEREAS**, the City Council finds that the regulation of door-to-door solicitors is necessary for orderly conduct of business within the City, and;

**WHEREAS**, the City Council deems it to be in the best interest of the health, safety and welfare of the citizens to incorporate the following changes to the provisions of the Vernal City Code, and;

**WHEREAS**, the City Council has received input from the public at large in duly noticed open meetings, and has considered and discussed the advantages and disadvantages of such regulation.

**BE IT ORDAINED BY THE CITY COUNCIL OF VERNAL CITY, UTAH AS FOLLOWS:**

**Section 1. Chapter 5.60 is hereby amended to read as follows**

**5.60 RESIDENTIAL SOLICITATION**

**Section 2. Section 5.60.010 is hereby amended to read as follows**

**5.60.010 Purpose.**

~~Residents of the City have an inalienable interest in their personal safety, well being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The City has a substantial interest in protecting the well being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.~~

~~There must be a balance between these substantial interests of the City and its citizens, and the effect of the regulations in this chapter on the rights of those who are regulated. Based on the collective experiences of City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door to door solicitation, the experience of its law enforcement officers and those affected by door to door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door to door solicitation, the City adopts this chapter to promote the City's substantial interests in:~~

~~A. Respecting citizens' decisions regarding privacy in their residences;~~

~~B. Protecting persons from criminal conduct;~~

~~C. Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and~~

~~D. Permitting truthful and non-misleading door to door solicitation regarding lawful goods~~

~~or services in intrastate or interstate commerce.~~

~~— The City finds that the procedures, rules and regulations set forth in this chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.~~

~~Residents of Vernal City have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. Vernal City has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. Vernal City also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.~~

~~There must be a balance between these substantial interests of Vernal City and its citizens, and the effect of the regulations in this Chapter on the rights of those who are regulated. Based on the collective experiences of Vernal City officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door Solicitation, Vernal City adopts this Chapter to promote the City's substantial interests in:~~

~~A. Respecting citizen's decisions regarding privacy in their residences;~~

~~B. Protecting persons from criminal conduct;~~

~~C. Providing equal opportunity to Advocate for and against religious belief, political position, or charitable activities; and~~

~~D. Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.~~

~~Vernal City finds that the procedures, rules and regulations set forth in this Chapter are narrowly tailored to preserve and protect the City interests referred to herein while at the same time balancing the rights of those regulated.~~

**Section 3. Section 5.60.020 is hereby amended to read as follows**

**5.60.020 No other City license or approval required. Definitions**

~~A. Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in door-to-door solicitation.~~

~~B. Any business licensed by the City under another City ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.~~

~~C. Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.~~

~~D. Nothing herein is intended to interfere with or supplant any other requirement of federal, State, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.~~

~~\_\_\_\_\_ For the purposes of this chapter, the following definitions shall apply:~~

~~— ADVOCATING: Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.~~

~~— APPEALS OFFICER: The City Council or designee of the City responsible for receiving the information from the City and appellant regarding the denial or suspension of a license and issuing a decision as required by this chapter.~~

~~— APPELLANT: The person or entity appealing the denial or suspension of a permit, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.~~

~~— APPLICANT: An individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a permit for door to door solicitation.~~

~~— APPLICATION FORM: A standardized form provided by the City to an applicant to be completed and submitted as part of registration.~~

~~— BCI:—~~

~~\_\_\_\_\_ A. A Utah Department of Public Safety bureau of criminal identification verified criminal history report personal to the applicant; or—~~

~~\_\_\_\_\_ B. Verification by the Utah Department of Public Safety bureau of criminal identification that no criminal history rising to the level of a disqualifying status exists for the applicant.~~

~~— BUSINESS: A commercial enterprise licensed by the City as a person or entity under this title, having a fixed or temporary physical location within the City.~~

~~— CHARITABLE ACTIVITIES: Advocating by persons or entities that either are, or support, a charitable organization.~~

~~— CHARITABLE ORGANIZATION: Includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:~~

~~\_\_\_\_\_ A. That is:~~

~~\_\_\_\_\_ 1. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;~~

~~\_\_\_\_\_ 2. For the benefit of a public safety, law enforcement, or firefighter fraternal association; or~~

~~\_\_\_\_\_ 3. Established for any charitable purpose; and~~

~~\_\_\_\_\_ B. That is tax exempt under applicable provisions of the internal revenue code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.~~

~~— Charitable organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the State for a charitable organization that has its principal place of business outside the City or State of Utah.~~

~~— COMPETENT INDIVIDUAL: A person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.~~

~~— COMPLETED APPLICATION: A fully completed application form, a BCI, two (2) copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.~~

~~— CRIMINALLY CONVICTED: The final entry of a conviction, whether by a plea of no~~

~~contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.~~

~~— DISQUALIFYING STATUS: Anything specifically defined in this chapter as requiring the denial or suspension of a permit, and any of the following:~~

~~— A. The applicant or registered solicitor has been criminally convicted of:~~

- ~~1. felony homicide,~~
- ~~2. physically abusing, sexually abusing, or exploiting a minor,~~
- ~~3. the sale or distribution of controlled substances, or~~
- ~~4. sexual assault of any kind;~~

~~— B. Criminal charges are currently pending against the applicant or registered solicitor for:~~

- ~~1. felony homicide,~~
- ~~2. physically abusing, sexually abusing, or exploiting a minor,~~
- ~~3. the sale or distribution of controlled substances, or~~
- ~~4. sexual assault of any kind;~~

~~— C. The applicant or registered solicitor has been criminally convicted of a felony within the last ten (10) years;~~

~~— D. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past ten (10) years;~~

~~— E. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past ten (10) years involving a crime of: 1) moral turpitude, or 2) violent or aggravated conduct involving persons or property;~~

~~— F. A final civil judgment has been entered against the applicant or registered solicitor within the last ten (10) years indicating that: 1) the applicant or registered solicitor had either engaged in fraud, or intentional misrepresentation, or 2) that a debt of the applicant or registered solicitor was non-dischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19);~~

~~— G. The applicant or registered solicitor is currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;~~

~~— H. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or~~

~~— I. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.~~

~~— DOOR-TO-DOOR SOLICITATION: The practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and/or services.~~

~~— ENTITY: Includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.~~

~~— FEES: The cost charged to the applicant or registered solicitor for the issuance of a permit and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the permit and/or identification badge.~~

~~— FINAL CIVIL JUDGMENT: A civil judgment that would be recognized under state law as a~~

judgment to which collateral estoppel would apply.

— GOODS: One or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

— HOME SOLICITATION SALE: To make or attempt to make a sale of goods or services by a solicitor at a residence by means of door to door solicitation, regardless of:

— A. The means of payment or consideration used for the purchase;

— B. The time of delivery of the goods or services; or

— C. The previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

— LICENSING OFFICER: The City employee(s) or agent(s) responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's permit.

— NO SOLICITATION SIGN: A reasonably visible and legible sign that states "No Soliciting", "No Solicitors", "No Salespersons", "No Trespassing", or words of similar import.

— PERMIT: A license permitting door to door solicitation in the City applied for or issued pursuant to the terms of this chapter.

— POLITICAL POSITION: Any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

— REGISTERED SOLICITOR: Any person who has been issued a current permit by the City.

— REGISTRATION: The process used by the City licensing officer to accept a completed application and determine whether or not a permit will be denied, granted, or suspended.

— RELIGIOUS BELIEF: Any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

— RESIDENCE: Any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.

— RESPONSIBLE PERSON OR ENTITY: That person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

— A. Maintaining a State sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

— B. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

— C. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

— SALE OF GOODS OR SERVICES: The conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three (3) days under any applicable federal, state, or local law.

— SERVICES: Those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

~~SOLICITING OR SOLICIT OR SOLICITATION: Any of the following activities:~~

~~\_\_\_\_\_ A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment \_\_\_\_\_ is sought.~~

~~\_\_\_\_\_ B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications.~~

~~\_\_\_\_\_ C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity.~~

~~\_\_\_\_\_ D. Seeking to obtain orders or prospective customers for goods or services.~~

~~\_\_\_\_\_ E. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or \_\_\_\_\_ a home solicitation sale.~~

~~\_\_\_\_\_ F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.~~

~~\_\_\_\_\_ SOLICITOR OR SOLICITORS: A person(s) engaged in door to door solicitation.~~

~~\_\_\_\_\_ SUBMITTED IN WRITING: The information for an appeal of a denial or suspension of a permit, submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.~~

~~\_\_\_\_\_ SUBSTANTIATED REPORT: An oral, written, or electronic report:~~

~~\_\_\_\_\_ A. That is submitted to and documented by the City; \_\_\_\_\_~~

~~\_\_\_\_\_ B. By any of the following:~~

~~\_\_\_\_\_ 1. A competent individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;~~

~~\_\_\_\_\_ 2. City law enforcement or licensing officer; or~~

~~\_\_\_\_\_ 3. Any other regularly established law enforcement agency at any level of government;~~

~~\_\_\_\_\_ C. That provides any of the following information regarding a registered solicitor:~~

~~\_\_\_\_\_ 1. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;~~

~~\_\_\_\_\_ 2. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;~~

~~\_\_\_\_\_ 3. Documented, eyewitness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of \_\_\_\_\_ this chapter; or~~

~~\_\_\_\_\_ 4. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.~~

~~\_\_\_\_\_ WAIVER: The written form provided to applicant by the City wherein applicant agrees that the City may obtain a name/date of birth, BCI background check on the applicant for licensing purposes under this chapter, and which contains applicant's notarized signature.~~

**Section 4. Section 5.60.030 is hereby amended to read as follows**

**5.60.030 Definitions. No other City license or approval required.**

**For the purposes of this Chapter, the following definitions shall apply:**

"Advocating" means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

"Appeals Officer" means the City Council or designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a certificate and issuing a decision as required by this Chapter.

"Appellant" means the person or entity appealing the denial or suspension of a Certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

"Applicant" means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.

"Application Form" means a standardized form provided by the City to an applicant to be completed and submitted as part of registration.

"B.C.I." means an original or copy, dated no older than sixty (60) days prior to the date of the application, of either:

1. A Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the applicant; or
2. Verification by the Utah Department of Public Safety Bureau of Criminal Identification that no criminal history rising to the level of a disqualifying status exists for the applicant; or
3. A Public Safety Bureau of Criminal Identification verified criminal report personal to the applicant from any other State in which the applicant resided in during the past ten (10) years from the date the application for the license is made.

"Business" means a commercial enterprise licensed by the City as a person or entity under this Title, having a fixed or temporary physical location within the City.

"Certificate" means a temporary, annual, or renewal Certificate permitting door-to-door solicitation in the City applied for or issued pursuant to the terms of this Chapter.

"Charitable Activities" means advocating by persons or entities that either are, or support, a charitable organization.

"Charitable Organization" includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

A. that is:

1. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization.
2. For the benefit of a public safety, law enforcement, or firefighter fraternal association; or
3. Established for any charitable purpose; and

B. That is tax exempt under applicable provisions of the Internal Revenue Code of 1986 as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

C. Charitable organization includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the City or State of Utah.

"Competent Individual" means a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

"Completed Application" means a fully completed application form, a B.C.I, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.

"Criminally Convicted" means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which the applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

"Disqualifying Status" means anything specifically defined in this Chapter as requiring the denial or suspension of a certificate, and any of the following:

A. The applicant or registered solicitor has been criminally convicted of:

1. Felony homicide,
2. Physically abusing, sexually abusing, or exploiting a minor,
3. The sale or distribution of controlled substances, or
4. sexual assault of any kind.

B. Criminal charges currently pending against the applicant or registered solicitor for:

1. felony homicide,
2. Physically abusing, sexually abusing, or exploiting a minor,
3. The sale or distribution of controlled substances, or
4. Sexual assault of any kind.

C. The Applicant or registered solicitor has been Criminally Convicted of a felony within the last ten (10) years;

D. The Applicant or Registered Solicitor has been incarcerated in a federal or state prison within the past five (5) years;

E. The Applicant or Registered Solicitor has been Criminally Convicted of a misdemeanor within the past five (5) years involving a crime of:

1. Moral turpitude, or
2. Violent or aggravated conduct involving persons or property.

F. A Final Civil Judgment been entered against the Applicant or Registered Solicitor within the last five (5) years indicating that: (I) the Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);

G. The applicant or registered solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

H. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or

I. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

"Door to Door Solicitation" means the practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.

"Entity" includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

"Fees" means the cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and / or identification badge.

"Final Civil Judgment" means a civil judgment that would be recognized under State law as a judgment to which collateral estoppel would apply.

"Goods" means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

"Home Solicitation Sale" means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of

A. the means of payment or consideration used for the purchase;

B. the time of delivery of the Goods or Services; or

C. the previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

"Licensing Officer" means the City employee(s) or agent(s) responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the



applicant's certificate.

"No Solicitation Sign" means a reasonably visible and legible sign that states "No Soliciting," "No Solicitors," "No Salespersons," "No Trespassing," or words of similar import.

"Political Position" means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

"Registered Solicitor" means any person who has been issued a current certificate by the City.

"Registration" means the process used by the City Licensing Officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.

"Religious Belief" means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

"Residence" means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the City, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street or public rights of way.

"Responsible Person or Entity" means that person or entity responsible to provide the following to an applicant, registerer solicitor, and the competent individual in a residence, to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

A. Maintaining a State sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

B. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

C. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

"Sale of Goods or Services" means the conduct and agreement of a Solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three days under any applicable federal, State, or local law.

"Services" means those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

"Soliciting" or "Solicit" or "Solicitation" means any of the following activities:

A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;

D. Seeking to obtain orders or prospective customers for goods or services.

E. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale.

F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

"Solicitor" or "Solicitors" means a person(s) engaged in door-to-door solicitation.

"Submitted in Writing" means the information for an appeal of a denial or suspension of a Certificate, submitted in any type of written statement to the City offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

"Substantiated Report" means an oral, written, or electronic report:

A. That is submitted to and documented by the City;

B. By any of the following:

1. A competent individual who is willing to provide law enforcement or other City employees with publicly available identification of their name, address, and any other reliable means of contact;

2. City law enforcement or Licensing Officer; or

3. Any other regularly established law enforcement agency at any level of government;

C. That provides any of the following information regarding a registered solicitor:

1. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;

2. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;

3. Documented, eye-witness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this Chapter; or

4. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the City.

"Waiver" means the written form provided to applicant by the City wherein applicant agrees that the City may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this Chapter, and which contains applicant's notarized signature.

~~— A. Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the City to engage in door-to-door solicitation.~~

~~— B. Any business licensed by the City under another City ordinance that uses employees, independent contractors, or agents for door to door solicitation in an effort to provide any tangible or intangible benefit to the business, shall be required to have such solicitors obtain a permit, unless otherwise exempt from registration.~~

~~— C. Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the City, provided they do not establish a temporary or fixed place of business in the City.~~

~~— D. Nothing herein is intended to interfere with or supplant any other requirement of federal, State, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.~~

**Section 5. Section 5.60.040 is hereby amended to read as follows**

**5.60.040 Exemptions from chapter. Permit – application – issuance – terms.**

The following are exempt from Registration under this Chapter:

A. Persons specifically invited to a Residence by a Competent Individual prior to the time of the person's arrival at the Residence;

B. Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;

C. Persons delivering goods to a residence pursuant to a previously made order, or persons providing Services at a residence pursuant to a previously made request by a competent Individual;

D. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution,

donation, pledge, or purchase; and

E. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student Solicitors carry current picture student identification from the educational institution for which they are soliciting.

Those Persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 5.60.170, 5.60.180 and 5.60.190 while advocating or soliciting.

The following are exempt from Registration under this Chapter:

A. Persons specifically invited to a Residence by a Competent Individual prior to the time of the person's arrival at the Residence;

B. Persons whose license, permit, certificate or registration with the State of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;

C. Persons delivering goods to a residence pursuant to a previously made order, or persons providing Services at a residence pursuant to a previously made request by a competent Individual;

D. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

E. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student Solicitors carry current picture student identification from the educational institution for which they are soliciting.

Those Persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 5.60.170, 5.60.180 and 5.60.190 while advocating or soliciting.

~~Upon the granting of a permit, the City Licensing Clerk shall issue the certificate of permit. Any permits issued pursuant to this chapter shall include date of expiration. No permit shall be valid for more than sixty (60) days from date of issuance. (Prior code § 11-16-004)~~

**Section 6. Section 5.60.045 is hereby repealed in its entirety**

**5.60.045 Exemptions from chapter.**

~~The following are exempt from registration under this chapter:~~

~~A. Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;~~

~~B. Persons whose license, permit, or registration with the State of Utah permits them to engage in door to door solicitation to offer goods or services to an occupant of the residence;~~

~~C. Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;~~

~~D. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution,~~

~~donation, pledge, or purchase; and~~

~~— E. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.~~

~~— Those persons exempt from registration are not exempt from the duties and prohibitions outlined in sections 5.60.170, 5.60.180, and 5.60.190 of this chapter while advocating or soliciting.~~

**Section 7. Section 5.60.050 is hereby amended to read as follows**

**5.60.050 Solicitation prohibited. Permit – application – investigation.**

~~— A. All applications for a door-to-door solicitors permit and any attachments or reports required by the City shall be referred to the Chief of Police for investigation and report as to the following:~~

- ~~1. Past business practices and history;~~
- ~~2. Verification of references;~~
- ~~3. Criminal record, if any;~~
- ~~4. Any other area which the Chief feels is directly related to the issuance of the license.~~

~~— B. After receipt of the application, the Chief of Police shall have ten (10) days to make the report to the City License Clerk.~~

~~— C. The City License Clerk shall have completed a Bureau of Criminal Identification (BCI) criminal history check prior to issuing any permit. The cost of the BCI check shall be paid for in advance by the applicant and forwarded to the Chief of Police for his review.~~

~~Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private residence within the City by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter.~~ (Prior code § 11-16-008)

**Section 8. Section 5.60.055 is hereby repealed in its entirety**

**5.60.055 Solicitation prohibited.**

~~— Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, the practice of being in and upon a private residence within the City by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this chapter.~~

**Section 9. Section 5.60.060 is hereby amended to read as follows**

**5.60.060 Registration of solicitors.**

~~— Unless otherwise exempt under this chapter, all persons desiring to engage in door-to-door solicitation within the City, prior to doing so, shall submit a completed application to the licensing officer and obtain a permit.~~

~~Unless otherwise exempt under this Chapter, all persons desiring to engage in door-to-door~~

solicitation within the City, prior to doing so, shall submit a completed application to the Licensing Officer and obtain a certificate.

**Section 10. Section 5.60.065 is hereby repealed in its entirety**

**5.60.065 Application form:**

— The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and fee:

— A. Review Of Written Disclosures: An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.

— B. Contact Information:

— 1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;

— 2. Applicant's telephone number, home address and mailing address, and any addresses for the places of residences in the last ten (10) years;

— 3. If different from the applicant, the name, address, and telephone number of the responsible person or entity; and

— 4. The address by which all notices to the applicant required under this chapter are to be sent.

— C. Proof Of Identity: An in person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant:

— 1. A valid driver's license issued by any state;

— 2. A valid passport issued by the United States;

— 3. A valid identification card issued by any state;

— 4. A valid identification issued by a branch of the United States military.

— Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

— D. Proof Of Registration With Department Of Commerce: The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce.

— E. Special Events Sales Tax Number: The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.

— F. Marketing Information:

— 1. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;

— 2. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.

— G. BCI Background Check: The City License Clerk shall complete a Utah Bureau of Criminal Identification (BCI) criminal history check current within the last thirty (30) days of filing on license application under this section with the fee being paid by the applicant. If the applicant has resided in another State outside the State of Utah within the past ten (10) years, the

~~applicant shall provide to the Licensing Clerk a Bureau of Criminal Identification criminal history check current within the last thirty (30) days of filing a license application under this section for any and all States resided in during the last ten (10) years.~~

~~H. Responses To Questions Regarding "Disqualifying Status": The applicant shall be required to affirm or deny each of the following statements on the application form:~~

- ~~1. Has the applicant been criminally convicted of:
  - ~~a. felony homicide,~~
  - ~~b. physically abusing, sexually abusing, or exploiting a minor,~~
  - ~~c. the sale or distribution of controlled substances, or~~
  - ~~d. sexual assault of any kind.~~~~
- ~~2. Are any criminal charges currently pending against the applicant for:
  - ~~a. felony homicide,~~
  - ~~b. physically abusing, sexually abusing, or exploiting a minor,~~
  - ~~c. the sale or distribution of controlled substances, or~~
  - ~~d. sexual assault of any kind.~~~~
- ~~3. Has the applicant been criminally convicted of a felony within the last ten (10) years?~~
- ~~4. Has the applicant been incarcerated in a federal or state prison within the past ten (10) years?~~
- ~~5. Has the applicant been criminally convicted of a misdemeanor within the past ten (10) years involving a crime of:
  - ~~a. moral turpitude, or~~
  - ~~b. violent or aggravated conduct involving persons or property.~~~~
- ~~6. Has a final civil judgment been entered against the applicant within the last ten (10) years indicating that:
  - ~~a. the applicant had either engaged in fraud, or intentional misrepresentation, or~~
  - ~~b. that a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19)?~~~~
- ~~7. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device?~~
- ~~8. Does the applicant have an outstanding arrest warrant from any jurisdiction? or~~
- ~~9. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction?~~

~~I. Fee: The applicant shall pay such fees as determined applicable by the City, which shall not exceed the reasonable cost of processing the application and issuing the permit and/or identification badge.~~

~~J. Execution Of Application: The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate.~~

**Section 11. Section 5.60.070 is hereby amended to read as follows**

**5.60.070 Permit--Fee Application form.**

The Licensing Officer shall provide a standard application form for use for the registration of solicitors. Upon request to the Licensing Officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information,

documentation, and fee:

A. Review of written disclosures. An affirmation that the applicant has received and reviewed the disclosure information required by this Chapter.

B. Contact information.

1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;

2. Applicant's current telephone number, home address and mailing address;

3. If different from the applicant, the name, address, and telephone number of the responsible person or entity; and

4. The address by which all notices to the applicant required under this Chapter are to be sent.

5. List of all States in which the applicant resided in for more than sixty (60) days during the last ten (10) years.

C. Proof of Identity. An in-person verification by the Licensing Officer of the applicant's true identity by use of any of the following which bear a photograph of said Applicant:

1. A valid driver's license issued by any State;

2. A valid passport issued by the United States;

3. A valid identification card issued by any State;

4. A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

D. Proof of registration with Department of Commerce and Utah State Tax Commission. The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce and Utah State Tax Commission;

E. Sales tax number. The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting with Vernal City showing as the place of business activity;

F. Marketing Information.

1. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;

2. Whether the applicant holds any, other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.

G. BCI background check. The applicant shall provide:

1. An original or a copy of a BCI background check as defined in 5.60.030;

H. Responses to questions regarding "Disqualifying Status." The applicant shall be required to affirm or deny each of the following statements on the application form:

1. Has the applicant been criminally convicted of:

a. felony homicide,

b. physically abusing, sexually abusing, or exploiting a minor,

c. the sale or distribution of controlled substances, or

d. sexual assault of any kind.

2. Are any criminal charges currently pending against the applicant for:

a. felony homicide,

b. physically abusing, sexually abusing, or exploiting a minor,

c. the sale or distribution of controlled substances, or

- d. sexual assault of any kind.
  - 3. Has the applicant been criminally convicted of a felony within the last ten (to) years;
  - 4. Has the applicant been incarcerated in a federal or state prison within the past five (5) years;
  - 5. Has the applicant been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:
    - a. moral turpitude, or
    - b. violent or aggravated conduct involving persons or property.
  - 6. Has a final civil judgment been entered against the applicant within the last five (5) years indicating that:
    - a. the applicant had either engaged in fraud, or intentional misrepresentation, or
    - b. that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.e. § 523(a)(2), (a)(4), (a)(6), or (a)(19);
  - 7. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;
  - 8. Does the applicant have an outstanding arrest warrant from any jurisdiction; or
    - a. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.
  - I. Fee. The applicant shall pay a \$50 fee for the cost of processing the application and issuing the certificate and/or identification badge.
  - J. Execution of Application. The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate. ~~The Vernal City Licensing Clerk shall collect fifty (\$50) dollars for every individual proposing to conduct door to door solicitations.~~
- (Prior code § 11-16-006)(Ord. No. 94-23, Amended, 11/2/94)

**Section 12. Section 5.60.080 is hereby amended to read as follows**

**5.60.080 Written disclosures. Duties of solicitors**

- The application form shall be accompanied by written disclosures notifying the applicant of the following:
- A. The applicant's submission of the application authorizes the City to verify information submitted with the completed application including:
    - 1. The applicant's address;
    - 2. The applicant's and/or responsible person or entity's State tax identification and special use tax numbers, if any;
    - 3. The validity of the applicant's proof of identity;
  - B. The City may consult any publically available sources for information on the applicant, including but not limited, to databases for any outstanding warrants, protective orders, or civil judgments.
  - C. Establishing proof of identity is required before registration is allowed;
  - D. Identification of the fee amount that must be submitted by applicant with a Completed application;
  - E. The applicant must submit a BCI background check as defined in Section 5.60.070 with a completed application;



~~F. To the extent permitted by State and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;~~

~~G. The City will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the City offices whether or not a certificate is denied, granted, or renewed.~~

~~H. The criteria for disqualifying status, denial, or suspension of a certificate under the provisions of this Chapter.~~

~~I. That a request for a temporary Certificate will be granted or denied the same business day that a completed application is submitted. Any individual proposing to conduct door to door solicitations shall possess with him at all times that such solicitations takes place a photograph identification tag provided by Vernal City. The tag must be worn on the outside of clothing at all times and readily visible to those potential customers who are contacted by the solicitor. (Prior code § 11-16-007)~~

**Section 13. Section 5.60.085 is hereby repealed in its entirety**

**5.60.085 Written disclosures.**

~~— The application form shall be accompanied by written disclosures notifying the applicant of the following:~~

~~— A. The applicant's submission of the application authorizes the City to verify information submitted with the completed application including:~~

~~— 1. The applicant's address;~~

~~— 2. The applicant's and/or responsible person's or entity's state tax identification and special use tax numbers, if any;~~

~~— 3. The validity of the applicant's proof of identity.~~

~~— B. The City may consult any publicly available sources for information on the applicant, including, but not limited to, databases for any outstanding warrants, protective orders, or civil judgments.~~

~~— C. Establishing proof of identity is required before registration is allowed.~~

~~— D. Identification of the fee amount that must be submitted by applicant with a completed application.~~

~~— E. The applicant must submit a BCI background application form to the Business License Clerk.~~

~~— F. To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection.~~

~~— G. The City will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the City offices whether or not a permit is denied, granted, or renewed.~~

~~— H. The criteria for disqualifying status, denial, or suspension of a permit under the provisions of this chapter.~~

**Section 14. Section 5.60.090 is hereby amended to read as follows**

**5.60.090 When registration begins.**

~~The Licensing Officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of~~

~~identity shall be returned after the Licensing Officer verifies the applicant's identity. A copy of the identification may be retained by the Licensing Officer. If an original B.C.I. background check is submitted by the applicant, the Licensing Officer shall make a copy of the B.C.I. check and return the original to the applicant. The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer.~~

**Section 15. Section 5.60.100 is hereby amended to read as follows**

**5.60.100 Issuance of license certificates.**

~~The Licensing Officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:~~

~~A. Temporary Certificate.~~

~~1. A temporary certificate shall be issued allowing the applicant to immediately begin door-to-door solicitation upon the following conditions:~~

~~a. Applicant's submission of a completed application;~~

~~b. Applicant's submission of the required fee;~~

~~c. Applicant establishes proof of identity;~~

~~d. the applicant's representations on the application form do not affirmatively show a disqualifying status;~~

~~e. The B.C.I. check does not affirmatively show a disqualifying status; and~~

~~f. the applicant has not previously been denied a certificate by the City, or had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter.~~

~~2. A temporary certificate will automatically expire after twenty-five (25) calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.~~

~~B. Six (6) month certificate. Within twenty-five (25) calendar days of the issuance of a temporary Certificate the City shall:~~

~~1. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to those disclosed with the application form.~~

~~2. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:~~

~~a. Will be issued a six (6) month certificate, eligible for renewal six (6) months from the date of issuance of the temporary certificate; or~~

~~b. Will not be issued a six (6) month certificate for reasons cited in Section 5.60.140 of this Chapter.~~

~~C. Renewal certificate. A certificate shall be valid for six (6) months from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance.~~

~~Any certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in section 5.60.140, or a disqualifying status is present. —The— licensing officer shall review the completed application submitted by the applicant and issue a permit in~~

~~accordance with the following:~~

~~A. Permit:~~

~~1. A permit shall be issued allowing the applicant to immediately begin door to door solicitation upon the following conditions:~~

~~a. Submission of a completed application;~~

~~b. Submission of the required fee;~~

~~c. Applicant establishes proof of identity;~~

~~d. The applicant's representations on the application form do not affirmatively show a disqualifying status;~~

~~e. The BCI check does not affirmatively show a disqualifying status; and~~

~~f. The applicant has not previously been denied a license by the City, or had a license revoked for grounds that still constitute a disqualifying status under this chapter.~~

~~g. The Chief of Police or his designees approval of application.~~

~~B. License terms: All applications for permit under this chapter shall be made to, and upon forms provided by the Vernal City Licensing Clerk. Upon the granting of a permit, the City Licensing Clerk shall issue the certificate of permit. Any permits issued pursuant to this chapter shall include date of expiration.~~

**Section 16. A new Section 5.60.110 is hereby added to read as follows**

**5.60.110 Form of certificate and identification badge.**

A. Certificate form. Should the Licensing Officer determine that the applicant is entitled to a certificate, the Licensing Officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the License Officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the City.

B. Identification badge. With both the temporary and six (6) month certificates, the City shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the City. The identification badge shall bear the name of the City and shall contain:

1. The name of the registered solicitor;

2. Address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided;

3. A recent photograph of the registered solicitor; and

4. The date on which the certificate expires.

**Section 17. Section 5.60.120 is hereby amended to read as follows**

**5.60.120 Maintenance of registry.**

The Licensing Officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the City. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The Licensing Officer may furnish to the head of the City's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

~~The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the permit or written denial issued by the City. The~~

~~applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the head of the City's law enforcement agency a listing of all applicants, those denied, and those issued a permit.~~

**Section 18. Section 5.60.130 is hereby amended to read as follows**

**5.60.130 Nontransferability of permits certificates.**

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different:

A. Goods or services; or

B. Responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the Licensing Officer.

A new certificate based on the amended information shall be issued for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the City, after payment of the fee for the identification badge.

~~— Permits shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The permit shall be nontransferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different:~~

~~— A. Goods or services; or~~

~~— B. Responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer.~~

~~— A new permit, if approved by the licensing officer based on the amended information, shall be issued for the balance of time remaining on the solicitor's previous permit before the amendment was filed. Before the new permit is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the City, after payment of the fee of \$25 for the identification badge.~~

**Section 19. Section 5.60.140 is hereby amended to read as follows**

**5.60.140 Denial, suspension or revocation of a certificate of registration.**

~~— A. Denial: Upon review, the licensing officer shall refuse to issue a permit to an applicant for any of the following reasons:~~

~~1. The application form is not complete;~~

~~2. The applicant fails to:~~

~~a. establish proof of identity;~~

~~b. pay the fees;~~

~~c. The completed application or BCI indicates that the applicant has a disqualifying status; or~~

~~d. The applicant has previously been denied a permit by the City, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.~~

~~— B. Denial of permit:~~

~~1. The information submitted by the applicant at the time of the granting of the permit is found to be incomplete or incorrect;~~

~~2. Since the submission of the completed application, the applicant is subject to a~~

~~previously undisclosed or unknown disqualifying status;~~

- ~~3. Failure to complete payment of the fees;~~
- ~~4. Since the submission of the application, the City has received a substantiated report regarding the past or present conduct of the applicant;~~
- ~~5. Since the submission of the application, the City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or~~
- ~~6. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:~~

- ~~a. the applicant had either engaged in fraud, or intentional misrepresentation, or~~
- ~~b. that a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19)~~

~~C. Suspension Or Revocation: The City shall either suspend or revoke a permit when any of the reasons warranting the denial of a permit occurs.~~

~~D. Notice Of Denial Or Suspension: Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's permit, the City shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by applicant upon one business day's notice to the City, and the date upon which the denial or suspension of the permit shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in subsection C4 of the definition of "substantiated report", in section 5.60.020 of this chapter, in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a permit automatically results in its revocation.~~

~~A. Denial. Upon review, the Licensing Officer shall refuse to issue a certificate to an applicant for any of the following reasons:~~

- ~~1. Denial of temporary certificate.~~
- ~~2. The application form is not complete;~~
- ~~3. The Applicant fails to~~
  - ~~a. Establish Proof of Identity,~~
  - ~~b. provide a B.C.I. check or~~
  - ~~c. pay the fees;~~
  - ~~d. The completed application or B.C.I. check indicates that the applicant has a disqualifying status; or~~
  - ~~e. The applicant has previously been denied a certificate by the City, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.~~

~~B. Denial of six (6) month certificate.~~

- ~~1. The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect;~~
- ~~2. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;~~
- ~~3. Failure to complete payment of the fees;~~

4. Since the submission of the application, the City has received a substantiated report regarding the past or present conduct of the applicant;

5. Since the submission of the application, the City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar Federal, State, or municipal laws in a manner rising to the level of a disqualifying status; or

6. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:

a. the applicant had either engaged in fraud, or intentional misrepresentation, or

b. that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).

**C. Denial of Six (6) month certificate renewal.**

1. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;

2. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

3. Failure to complete payment of the fees;

4. Since the submission of the application or granting of a certificate, the City has received a substantiated report regarding the past or present conduct of the solicitor;

5. The City or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar Federal, State, or municipal laws in a manner rising to the level of a disqualifying status; or

6. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:

a. the applicant had either engaged in fraud, or intentional misrepresentation, or

b. that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19).

**D. Suspension or Revocation.** The City shall either suspend or revoke a certificate when any of the reasons warranting the denial of a Certificate occurs.

**E. Notice of denial or suspension.** Upon determination of the Licensing Officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the City shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the City relied on to make the decision, the availability of the documentation for review by applicant upon one (1) business day notice to the City, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in Section 000-003(34)(C)(4), in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

**Section 20. Section 5.60.150 is hereby amended to read as follows**

**5.60.150 Appeal.**

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the City Council or its designee. Any appeal must be submitted by either the

applicant, the responsible person or entity, or legal counsel for either who:

A. Documents the relationship with the applicant or responsible person or entity; or

B. Is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

1. Any appeal must be submitted in writing to the City Recorder with a copy to the License Officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

2. Upon request of the applicant or registered solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

3. The Appeals Officer or City Council shall review, de novo, all written information submitted by the applicant or registered solicitor to the Licensing Officer, any additional information relied upon by the Licensing Officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the Appeals Officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the Appeals Officer or City Council regarding the additional information submitted by the opposing party.

4. The Appeals Officer or City Council will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in this section, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

a. The denial or suspension of the certificate shall be reversed by the Appeals Officer or City Council if upon review of the written appeal and information submitted, the Appeals Officer or City Council finds that the Licensing Officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

b. If the written appeal and information submitted indicates that the Licensing Officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.

c. The decision of the Appeals Officer or City Council shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed upon when the appeal was filed.

5. After the ruling of the Appeals Officer or City Council, the applicant or solicitor is deemed to have exhausted all administrative remedies with the City.

6. Nothing herein shall impede or interfere with the applicant's, solicitor's, or City's right to seek relief in a court of competent jurisdiction.

~~A. An applicant or registered solicitor whose permit has been denied or suspended shall have the right to appeal to the City Council or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who:~~

~~1. documents the relationship with the applicant or responsible person or entity; or~~

~~2. is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship.~~

~~— B. The following procedures and requirements shall apply:~~

~~1. Any appeal must be submitted in writing to the City recorder with a copy to the licensing officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.~~

~~2. Upon request of the applicant or registered solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the permit.~~

~~3. The appeals officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the City, applicant or registered solicitor. Any additional information submitted by any party to the appeal to the appeals officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.~~

~~4. The appeals officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in subsection C of this section, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.~~

~~C. The denial or suspension of the permit shall be reversed by the appeals officer if upon review of the written appeal and information submitted, the appeals officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant's or registered solicitor's permit.~~

~~D. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the permit of the applicant or registered solicitor, the denial or suspension of the permit shall be affirmed and constitute a determination that the suspended permit is revoked.~~

~~E. The decision of the appeals officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed upon when the appeal was filed.~~

~~F. After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the City~~

~~G. Nothing herein shall impede or interfere with the applicant's, solicitor's, or City's right to seek relief in a court of competent jurisdiction.~~

**Section 21. Section 5.60.160 is hereby amended to read as follows**

**5.60.160 Deceptive soliciting practices prohibited.**

**A. No solicitor shall intentionally make any materially false or fraudulent statement in the course of Soliciting.**

**B. A solicitor shall immediately disclose to the consumer during face-to-face Solicitation:**

**1. The name of the solicitor;**

**2. The name and address of the entity with whom the solicitor is associated; and**

**3. The purpose of the solicitor's contact with the person and/or competent individual.**



This requirement may be satisfied through the use of the badge and an informational flyer.

C. No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

D. No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the City of the solicitor's goods or services or of the individual solicitor.

~~— A. No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.~~

~~— B. A solicitor shall immediately disclose to the consumer during face to face solicitation: 1) the name of the solicitor; 2) the name and address of the entity with whom the solicitor is associated; and 3) the purpose of the solicitor's contact with the person and/or competent individual. This requirement may be satisfied through the use of the badge and an informational flyer.~~

~~— C. No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.~~

~~— D. No solicitor shall represent directly or by implication that the granting of a permit of registration implies any endorsement by the City of the solicitor's goods or services or of the individual solicitor.~~

**Section 22. Section 5.60.170 is hereby amended to read as follows**

**5.60.170 "No solicitation" notice.**

A. Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.

B. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.

C. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.

D. The provisions of this Section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this Chapter.

~~— A. Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "no solicitation" sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.~~

~~— B. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.~~

~~— C. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.~~

~~— D. The provisions of this section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this chapter.~~

**Section 23. Section 5.60.180 is hereby amended to read as follows**

**5.60.180 Duties of solicitors.**

A. Every person soliciting or advocating shall check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such

as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

B. It is a violation of this Chapter for any person Soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.

C. It is a violation of this Chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

D. Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

E. The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent;

F. The solicitor shall not follow a person into a residence without their explicit consent;

G. The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor;

H. The solicitor shall not use obscene language or gestures.

~~A. Every person soliciting or advocating shall check each residence for any "no soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "no solicitation" signs. If such sign or placard is posted, such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a permit of registration does not in any way relieve any solicitor of this duty.~~

~~— B. It is a violation of this chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "no solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door to door soliciting, or soliciting.~~

~~— C. It is a violation of this chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.~~

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~~— G. The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.~~

~~— H. The solicitor shall not use any obscene language or gestures.~~

**Section 24. Section 5.60.190 is hereby amended to read as follows**

**5.60.190 Time of day restrictions.**

~~It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 7:00 p.m. Mountain Standard Time or 9:00 p.m. Daylight Savings Time, unless the solicitor has express prior permission from the resident to do so. It shall be unlawful for any person, whether licensed or not, to solicit at a residence before nine o'clock (9:00) A.M. or after seven o'clock (7:00) P.M. Mountain Time, unless the solicitor has express prior permission from the resident to do so.~~

**Section 25. Section 5.60.200 is hereby amended to read as follows**

**5.60.200 Buyer's right to cancel.**

~~In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "Buyer's right to cancel" shall be in the form required by § 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State or Federal law modifying or amending such provision.~~

~~— In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of "buyer's right to cancel" shall be in the form required by section 70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any state or federal law modifying or amending such provision.—~~

**Section 26. Section 5.60.210 is hereby amended to read as follows**

**5.60.210 Penalties.**

~~Any person who violates any term or provision of this Chapter shall be guilty of a Class B Misdemeanor and shall be punished by a fine of not to exceed \$1,000.00 and/or a jail sentence of not to exceed six (6) months.~~

~~— Any person who violates any term or provision of this chapter shall be guilty of a class B misdemeanor and shall be punished by a fine of not to exceed one thousand dollars (\$1,000.00) and/or a jail sentence of not to exceed six (6) months.—~~

**SECTION A. REPEALER.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the code are hereby repealed.

**SECTION B. SEVERABILITY.** The provisions of this ordinance shall be severable and if any provision thereof or the application of such provision under any circumstances is held invalid and it shall not affect the validity of any other provision of this ordinance or the application in a different circumstance.

**SECTION C. EFFECTIVE DATE.** This ordinance shall take effect the day after publication the 10<sup>th</sup> day of June, 2015.

\_\_\_\_\_  
Mayor Sonja Norton

ATTEST:

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Kenneth L. Bassett, City Recorder

( S E A L )

Date of Publication: June 9, 2015