CITY OF LOGAN, UTAH
ORDINANCE NO. 05-25

AN ORDINANCE AMENDING THE BUSINESS LICENSE CODE RELATING TO
SOLICITORS, AND RELATED MATTERS

WHEREAS, the City of Logan Municipal Council has the responsibility and duty to provide for the health, welfare and safety of its residents and citizens; and

WHEREAS, solicitors, itinerant transients, and peddlers have created certain concerns and apprehensions among the public; and

WHEREAS, reasonable regulation of time, place and manner of such individuals is consistent with the constitutional limitation of commercial speech;

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1: Sections 5.02.030, 5.02.050, 5.02.060, 5.02.070, 5.02.140, 5.02.150, 5.02.160, 5.02.230, 5.02.240 of Chapter 5.02, “Business License General Provisions” Logan Municipal Code, 1989, are hereby amended to read as follows:

5.02.030 Exemptions.

A. The provisions of this chapter shall not be deemed or construed to require the payment of a license fee by, or the issuance of a license to, any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes or from which profit is not derived, directly or indirectly by any individual, firm or profit corporation; nor shall the payment of a license fee or the issuance of a license be required for the conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, musical, religious or moral subject, whenever the receipt from such is to be appropriated to any church or school or to any religious or benevolent purpose within the city; nor shall the payment of a license fee or the issuance of a license be required for the conducting of any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, state, county or municipal organization or association when the receipts from such are to be appropriated for the purposes and objects for which such association or organization is formed and from which profit is not derived, either directly or indirectly by any individual, firm or profit corporation.

B. Organizers, managers or owners of such exempt event or organization located within city boundaries must register with the business license division on a form or forms provided by the administrator. Proof of exempt status shall be required of the applicant prior to license and fee waiver by the business license administrator. (Ord. 97-76 §1(part), 1997)

C. Exemption from business license fees is not an exemption from required registration with the division, code compliance with other state, federal and local codes, nor from payment of other City fees, such as building inspection or conditional use permit, etc., as required.
D. Solicitation for any purpose, including fundraising for charitable causes, is subject to Chapter 5.30 of Title 5 of the Logan Municipal Code.

5.02.050 Bonding.

A. The following occupations or businesses shall require the posting of a cash or corporate surety bond in the sum listed below in addition to whatever regular or special licenses may be required pursuant to the provisions of this chapter:

<table>
<thead>
<tr>
<th>Occupation or Business</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcoholic Beverage Retail Establishment</td>
<td>$5,000 surety</td>
</tr>
<tr>
<td>Auctioneer</td>
<td>$5,000 surety</td>
</tr>
<tr>
<td>Itinerant or transient merchant, solicitor</td>
<td>$5,000 surety or $1,000 cash</td>
</tr>
<tr>
<td>Pawnbrokers</td>
<td>$5,000 surety</td>
</tr>
<tr>
<td>Wrestling, boxing</td>
<td>$1,000 cash, $5,000 surety</td>
</tr>
<tr>
<td>Employment service</td>
<td>$5,000 surety</td>
</tr>
</tbody>
</table>

B. All such bonds shall be conditional for the faithful observance by the licensee of all laws and ordinances of the city and for the honest performance of all duties required of the licensee by ordinance as well as for such additional purposes as may be required in the particular chapter of this title requiring a license for such occupation or business. Any corporate surety bond must be issued by a company with an office in Utah, or in the absence of an office, the company must have designated an office for the service of process in the state.

C. All such cash bonds shall be refunded by way of a payment from the city to the licensee for the amount of the cash bond no less than thirty days after the license expires, conditional on the faithful observance by the licensee and employees and representatives thereof of the laws and ordinances of the city and the honest performance of all duties required of the licensee.

D. If the licensee, including employees and representatives thereof, is cited for conduct of fraudulent or other noncompliant business, or there is other verifiable or substantial fraudulent or other noncompliant business conducted by the licensee, including employees and representatives thereof, the cash bond shall be forfeited, or in the case of a surety bond, a claim filed against the licensee on behalf of the city.

E. Appeal for any decision regarding bond forfeiture or claims shall be pursuant to the appellate process identified in Section 5.02.160 of this chapter. (Ord. 97-76 §1(part), 1997)

5.02.060 Application--Responsibility applicant--Contents.

It shall be the responsibility of a person engaging in business within the city to voluntarily apply for and maintain in full force and effect a valid license.
A. The application form shall be issued by the division, and shall require the following information: business name, address, mailing address and telephone number; owner's and local manager's names, addresses and home telephone numbers; dates of birth; social security numbers; driver's license numbers; emergency phone number; Utah state sales tax number, Federal Employer Identification Number, Utah employer withholding number, business name and entity registration information, Utah state regulatory license information, and other identifiers as they are required for the applicant to legally conduct the applied for business; business start date; location start date if different from business start date; and a description of the business activity(ies) to be conducted.

In the case of a corporate applicant, the above-identified information shall be required for the corporation and the corporate officers in addition to any stockholder who holds at least twenty percent of the total issued and outstanding stock of the corporation. Any registered agent not also an officer of the corporation shall be required to submit personal name and contact address and phone number.

B. Should it be necessary that a person be required by the administrator to make application for a license, the administrator shall charge a nonrefundable application fee based on the cost of setting up new records, distributing the application, inspecting the business site, reviewing the application for approval or denial, notifying the applicant of license status and other activities related to license setup and status determination.

C. Application is Not a License. Submission of an application does not constitute license approval. License approval or denial shall be determined within approximately two weeks from application submission, except as indicated in subsequent chapters of this title for limited identified purposes. If all building, fire and other health and safety codes are met, If circumstances do not allow completion of the application process in a timely manner, the applicant may receive a notice warning of application denial for non-compliant issues and allowing a specified timeframe for resolution of such. If compliance is not possible, the application will be denied.

D. Short-Notice Application. Applications submitted with insufficient time to attend to the regular application review process prior to opening their business or submitted in response to a citation for operating a business without a license will receive expeditious review as far as possible. Until a decision for license approval is rendered by the administrator, the applicant must cease and desist all activities requiring a business license. There will be an additional fee charged for the expeditious non-routine handling necessary to inform the affected jurisdictional agencies and obtain the appropriate approvals. (Ord. 97-76 § 1 (part), 1997)

5.02.140 Applicant Information Referred To Police Department.

Applicants for a business license will have their business and personal identification information referred to the police department by the administrator for a local background check and to alert the police to any new business to enable informed emergency support.
An applicant's criminal background may be grounds for denial of the license application if the applicant's record contains convictions for violations of any city, county, state or federal laws or other verifiable issues which demonstrate a potential risk to the health, safety, peace or general welfare of the city or its inhabitants; or if there are unresolved warrants for any applicant; or any other reason expressly provided for in this chapter or in subsequent chapters as applicable to the subject special license or registration.

Applicants may appeal license application denial or conditional approval by submitting a request to the business license administrator pursuant to the appellate process identified within each chapter or in Section 5.02.160 of this chapter. (Ord. 02-62 §1, 2002: Ord. 97-76 §1, 1997)

5.02.150 Revocation.

Any license issued pursuant to the provisions of this chapter by the administrator may be suspended or revoked for the violation by the licensee of any provisions in this chapter or any other applicable ordinance or law, failure to pay license fees, or falsification of application upon the recommendation of a city inspector of the police department for good cause shown and following a full and complete hearing. Notification of business license revocation shall be mailed by the administrator to the licensee and shall be mailed by certified mail to such licensee. (Ord. 97-76 §1, 1997)

5.02.160 Appellate Process.

A. Purpose: The purpose of this section is to provide uniform appeals procedures for business license actions of the city, including application denial, conditional approval of the license, and license denial, nonrenewal, revocation, or suspension.

B. Exceptions to the use of the appeal process in this section will occur if an appeal process is detailed otherwise for a special license within the applicable chapter.

C. B. Filing Appeals:

1. All administrative appeals are filed in writing with the business license administrator (administrator) in the business license division (division) of the city of Logan within fifteen (15) calendar days of the action being appealed. An appeals application not filed in the above specified division shall not constitute a filing for purposes of meeting the fifteen (15) day limit.

2. Appeals filed with district court shall be filed in conformance with the requirements of state law and court procedures. Nothing in this chapter is intended to imply changes to, other procedures for, or otherwise override standard procedures and timelines of district court.

D. C. Body To Hear Appeals--License Review Board:

1. Purpose: The license review board shall act as a governing board over the business license appellate process when licenses, consents or permits have been suspended, revoked, denied,
or not renewed by the administrator, or when applications have been denied, or when licenses or applications have been conditionally approved by the administrator.

2. Board Composition: The license review board shall be appointed by the mayor and shall be comprised of two (2) citizens of Logan and three (3) employees of the city, including the economic development director, fire chief, the community development director, and the chief of police, or their designees. Alternate department head(s) shall be assigned by the mayor to participate on the board if conflict of interest issues arise for board members/designees employed by the city. The business license administrator shall not serve as a member of this board.

3. Board Decision: Following the hearing, the board shall render a decision based on a simple majority vote by a quorum of the board.

4. Board Quorum: A quorum shall be comprised of at least three (3) members of the board with not less than one citizen member of the board present.

5. Split Vote: Should a split vote occur due to an even number of members present, the decision being appealed will stand.

E.&.: Standing To File An Appeal: The licensee, applicant, proponent, or any affected party may file an appeal of a decision by the administrator. In the case of death or health related disability of the applicant, rendering that individual unable to request or participate in the appeal process, the applicant's designee may proceed on behalf of the applicant.

F.&.: Contents Of The Request For An Appeal: Minimum requirements. At a minimum the request for an appeal shall be filed in writing and include the following:

1. The name of the person or persons filing the appeal, a mailing address, and daytime telephone number;

2. The business name and the identification number assigned by the administrator in the action/appeal process notification;

3. The date of the action notice;

4. Any required appeal application fee;

5. The specific issues being appealed:

   a. If the license was conditionally approved and specific conditions are being appealed, the request for an appeal shall specify the conditions being appealed and the reason(s) for the appeal,

   b. If the license was approved without conditions, the request for appeal shall specify the actions taken that have generated the appeal request,
c. If the application was denied or the license was suspended, revoked or not renewed, the request for appeal shall specify the findings used by the administrator or other decision maker(s) that have generated the appeal request;

6. A statement shall be included demonstrating applicant's standing as set forth in subsection D E of this section;

7. Incomplete applications unacceptable. An incomplete application for an appeal shall not be accepted. Submitting an incomplete application shall not waive, defer, or delay the fifteen (15) day appeal deadline.

G.F.: Staff Report Required: The administrator rendering the decision being appealed shall provide the board and appellant with a written report or memorandum explaining the basis of the decision or interpretation.

H.G: Appeal Meeting: Not less than fourteen (14) days following the receipt of the application for appeal, the license review board shall hold a meeting to hear the appeal. At that meeting, the board shall hear the administrator's report including a summary of the action being appealed, clarification by the other decision maker(s) involved, as needed, and the testimony of the appellant and any additional proponent(s) of the appeal. The board may take testimony and comments from the general public, and it may consider new information and facts in reaching its decision.

I.H: Decision Of The Appeal: The board shall render its decision at the meeting by majority vote of the members present, unless the matter is continued to a future meeting pending a request of the board for more information. The board may overturn the administrator on the basis of its findings, it may uphold the administrator, or if new information is presented that was not previously presented to the administrator, the board may return the matter to the administrator for new proceedings. The action of the board is the final administrative procedure within the city's process.

J.H: Findings Required To Overturn Or Modify The Decision Maker's Action: If the board overturns or modifies the action of the administrator, the board shall make findings substantiated in conformance with the requirements of procedures for the type of action being appealed. If the board upholds the appealed action, no additional findings are required, the board's action automatically affirms the previously adopted findings. The board may, upon upholding the administrator, add, clarify, or enhance findings based upon the facts of the appeal meeting. (Ord. 02-62 §1, 2002: Ord. 97-76 §1, 1997)

5.02.170 Doing Business Unlawful After License Denied, Suspended Or Revoked.

If at any time a license is denied, suspended or revoked under the provisions of this chapter, it shall thereafter be unlawful for any person to conduct a business for which a license is required at the premises where the license is suspended or revoked or the application for the license denied until a new license shall be granted by the administrator or the license under suspension is
reinstated to active status. Every day the business operates while in a state of denial, revocation or suspension shall be considered a separate offense subject to citation. (Ord. 97-76 § 1, 1997)

5.02.230 Fee adjustment to avoid burdening interstate commerce.

None of the license fees provided in this chapter shall be applied to occasion an undue burden on interstate commerce. State law requires local governments to establish license fees based on the cost to the city to regulate and license the businesses. The city has an interest in not bearing undue burden for licensing any type of business practice or enterprise. The fee structure approved by municipal council shall be reasonably related to the actual cost to the city of the licensing process and uniformly assessed on businesses of like nature. In any case, where a license fee is believed by a licensee or an applicant for a license to place an undue burden upon such interstate commerce, such licensee or applicant may apply to the administrator for an adjustment of the fee so as to relieve such burden. The licensee or applicant shall, by supporting affidavits, indicate her or his method of doing business and such other information that may be relevant to establishing the license category for the fee assessment, as the administrator may deem necessary in order to determine the extent, if any, of such undue burden. The administrator shall then conduct an investigation evaluate the information provided, comparing the subject business with other businesses of like nature and shall make findings of fact from which the administrator shall determine whether the license is discriminatory, unreasonable or unfair as to the licensee or applicant from the standpoint of its impact on interstate commerce. The administrator shall make any adjustments to the license category and/or fee assessment, if merited, and report to the licensee or applicant any findings and subsequent action taken. If the applicant or licensee is not satisfied with the decision of the administrator, he or she may appeal the decision according to Section 5.02.160 of this chapter and shall recommend to the director an appropriate license fee under the circumstances and the director shall fix the license fee in such amount. If the regular license fee has already been paid, the director shall order refund of the amount over and above the fee fixed, if different. In fixing the fee to be charged, the administrator shall have the power to base the fee on number of employees or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature; provided, however, that the amount assessed shall in no event exceed the regular fee prescribed in this chapter. (Ord. 97-76 § 1(part), 1997)

5.02.240 Exemption of insurance companies.

Insurance companies shall apply in all respects for the obtaining of a business license pursuant to this chapter, but shall not pay a fee unless providing services that are not exempt from local fees pursuant to state law. The certificate of authority issued by the State of Utah Department of Insurance for that business shall accompany the business license application and shall be maintained in good standing for the duration of the conduct of such business. The licensee shall notify the division in writing should additional authorities be granted the company by the Utah Department of Insurance. Businesses which perform services in addition to insurance services licensed by the Utah Department of Insurance shall pay fees as set by resolution of the municipal council and as administered by the business license administrator. (Ord. 97-76 § 1(part), 1997)
SECTION 2: Chapter 5.06, “Agricultural Vendors” Logan Municipal Code, is hereby amended to read as follows:

Chapter 5.06 AGRICULTURAL VENDORS

5.06.010 Definitions.

In addition to the definitions set forth in Section 5.02.020, the following words and phrases used in this chapter shall have the meanings prescribed in this section:

A. "Agricultural vendor" means a person engaged in the sale of fruits and/or vegetables from stands, motor vehicles, or roadsides or through door-to-door solicitation. (Prior code §7-11-1)

5.06.020 License required--Display.

It is unlawful for any person to conduct the business of agricultural vendor, except as exempted in this chapter, without first securing a license for such business. The licensee shall conspicuously display such license in their place of business so that the same is plainly visible to the public. (Prior code §7-11-2)

5.06.030 License fees.

License fees for licenses issued pursuant to this chapter shall be the same as set forth in Section 5.02.190. (Prior code §7-11-5)

5.06.040 Inspections.

The division reserves the right to inspect any premises or location utilized for carrying on the business of agricultural vendors to assure compliance with the provisions of this chapter. Permits for parking obtained from the zoning administrator shall be produced upon request of division inspectors. (Prior code §7-11-6)

5.06.050 Exemptions.

A. Agricultural vendors who sell only fruits and vegetables produced and sold from their own homes or property immediately adjoining their own homes are exempt from licensing or the payment of license fees under this chapter; provided, however, that such agricultural vendors shall nevertheless be required to obtain a permit Certificate of Registration from the city zoning administrator, as provided in Section 5.06.060, to assure adequate and safe off-street parking at the place of sale. (Prior code §7-11-3)

B. Door-to-door solicitation to sell fruits and vegetables is regulated pursuant to Chapter 5.30 (Solicitors), and is exempt from this chapter.

5.06.060 Procedure.
All applicants for a license or certificate of registration under this chapter, whether or not exempted under Section 5.06.050, must obtain approval from the planning division permission for the issuance of a parking permit from the city zoning administrator prior to the issuance of a temporary or annual license or certificate of registration. The zoning administrator planning division shall review each request to assure that adequate and safe parking exists at the place of sale. Upon issuance of such permit, agricultural vendors exempted from licensing as provided in Section 5.06.050 may commence operations. Upon presenting an approved permit from the zoning administrator to the division, all non-exempted applicants shall receive from, fill out and file with the division a business license application as required under the provisions of Section 5.02.030 et seq. The provisions set forth in Chapter 5.02 shall be controlling as to all matters relating to the requirements for the issuance of a license, license fees, exemptions, renewals, etc. (Prior code §7-11-4)

5.06.070 Unlawful acts.

It is unlawful for an agricultural vendor to supply an exempted location with produce grown at nonexempt locations or to sell any merchandise other than fruits and vegetables at an exempted location. (Prior code §7-11-7)


SECTION 4. Chapter 5.31, “Solicitors,” Logan Municipal Code, 1989, is hereby added to read as follows:

Chapter 5.31 SOLICITORS

Sections:

5.31.010 Purpose.
5.31.020 Definitions.
5.31.030 Solicitation Prohibited.
5.31.040 Exception for Invited Solicitor.
5.31.050 Exemptions from Ordinance.
5.31.060 Charitable Exception.
5.31.070 Registration of Solicitors.
5.31.090 Proof of Identification Required.
5.31.100 Registration Complete with Issuance.
5.31.110 Form of Certificate and Badge.
5.31.120 Maintenance of Registry.
5.31.130 Renewal of Certificate.
5.31.140 Non-transferability.
5.31.150 Deceptive Soliciting Practices Prohibited.
5.31.160 Revocation of Certificate.
5.31.170 Appeal.
5.31.010 Purpose. This is an ordinance to protect against criminal activity, including fraud, disorderly conduct, burglary, and assault, to minimize the unwelcome disturbance of citizens and the disruption of privacy, and to otherwise preserve the public health, safety and welfare by regulating, controlling and licensing solicitors and peddlers. The City has an interest in protecting the well-being, tranquility, and privacy of the home. The privacy includes an ability to avoid unwelcome intrusions, and the City has a responsibility to protect citizens from such intrusions. The City also has an interest in protecting consumers from inappropriate or fraudulent practices and to protect its citizens from criminal activity such as disorderly conduct, theft, trespass and assault. The City has a responsibility to protect its citizens from actual harm as well as to protect them from potential harm; which may result from unregulated door-to-door solicitation. There must be a balance of these legitimate interests of the City and the effect of the regulations on the rights of those who are regulated. Based upon the information which the City has considered and the experience and those affected by door-to-door canvassing and solicitation, the City finds that the procedures, rules and regulations set forth in this Ordinance are tailored narrowly to preserve and protect the City interests reflected herein while at the same time balancing the rights of those regulated.

5.31.020 Definitions. For the purpose of this Ordinance, the following definitions shall apply;

A. **“Administrator”** means the Business License Administrator of the Business License Division in the City of Logan.

B. **“Applicant”** means:

1. An individual who is an independent contractor or sole proprietor acting as a salesperson representing self or representing the seller under a 1099 statement with the IRS, or

2. An association, firm, corporation or other organization (hereafter referred to as “company”), or

3. A salesperson who is an employee of the company and is receiving a W-2 statement for the IRS, or who is an officer or owner of a company and will be soliciting sales in the City at any time during the calendar year of the application.
C. "Division" means the Business License Division in the City of Logan Department of Finance.

D. "Home Solicitation Sale" means a consumer cash sale or credit sale of goods or services in which the seller or a person acting for him engages in a face-to-face solicitation of the sale at a residence or place of employment of the buyer and the buyer’s agreement to offer to purchase is there given to the seller or a person acting for him. It does not include a sale made pursuant to preexisting open-end accounts, or a sale made between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sales.

E. "Person" means a natural person or any firm, corporation, association, club, society or other organization.

F. "Registrant" or "Registered Solicitor" means any person who is subject to this ordinance who had obtained a valid Certificate of Registration from the Business License Division of the City for the purpose of soliciting.

G. "Residence" means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the legal zoning/land use definitions of the City.

H. "Soliciting" or "Solicitation" means any of the following activities designed or intended to seek, obtain, promote or facilitate Home Solicitation Sale:

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

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

3. Seeking or attempting to obtain contributions of money or any other thing of value for the benefit of any association, organization, corporation, or program;

4. Seeking to obtain orders or prospective customers for goods or services;

5. Other activities falling within the commonly accepted definition of "Soliciting."

I. "Solicitor" or "Solicitors" means a person or persons who goes upon the premises of any private property or residence in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of merchandise, wares, or other personal property of any nature for immediate or future delivery, or for services to be performed immediately or in the future. This definition also includes any person who, without invitation, goes upon private property to request contribution of funds or
anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes, and who are engaged in the activities defined as "Soliciting."

**5.31.03 Solicitation Prohibited.** It shall be unlawful for any person eighteen (18) years of age or older to engage in peddling or solicitation activities within the City of Logan without first obtaining a permit issued by the Business License Division. No person under the age of eighteen (18) shall be permitted to engage in peddling or solicitation unless authorized and permitted under Section 5.31.060. Unless authorized or permitted pursuant to the terms and provisions of this Ordinance, the practice of being in and upon private residential property within the City by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise and/or services for the purpose of peddling or the same is prohibited and is punishable as set forth in this Ordinance.

**5.31.040 Exception for Invited Solicitor.** The prohibition under Section 5.31.030 shall not apply if the owner or occupant of the private residential property has previously and specifically invited the solicitor to the private residential property. Such invitation shall not relieve the solicitor from complying with all other terms and provisions of this Ordinance.

**5.31.050 Exemptions from Ordinance.** The terms and provisions of this Ordinance do not apply to persons engaged in non-commercial distribution of religious tracts and information, the door-to-door canvassing and pamphleteering as vehicles for the dissemination of ideas or engaged in political activities as a candidate or on behalf of a candidate in a recognized federal, state or local election.

**5.31.060 Charitable Exception.** The prohibition under Section 5.31.190 shall not apply if the solicitor is working on behalf of a charitable organization recognized as such under regulations issued by the IRS pursuant to its authority created by the terms of 26 U.S. C. §501. Any solicitor claiming such exception shall provide written verification to the City Business License Administrator and receive approval from such Administrator prior to engaging in any soliciting within the City. Such approval shall be evidenced by such documentation as determined appropriate by the Administrator, including registration with the Utah Department of Commerce, Division of Consumer Protection for charitable solicitation, as required. The Charitable Exception shall apply generally to persons making solicitations for a church, religious organization or charitable organization recognized by the IRS as a non-profit corporation, and shall include any unincorporated association or corporation under the supervision and control of any church, charitable organization or religious organization, if the church or organization is tax exempt under IRS regulations. The Charitable Exception shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved by the school principal or superintendent of schools and such approval has been filed in writing with the City Business License Administrator; provided, however, that no such solicitation is permitted if the occupant of the residence has complied with the "No Soliciting" provisions of Section 5.31.190.
5.31.070 Registration of Solicitors. All persons not exempted as provided in this Ordinance desiring to engage in soliciting within the City shall, prior to doing so, apply to the City Business License Administrator for an Annual Certificate of Registration. The certificate executed by the Administrator or designee shall be maintained by the Administrator and a legal copy shall be carried by the Registrant at all times while soliciting. Upon request for inspection by an owner or occupant of a residence or a City Police Officer while engaged in soliciting, the Registrant shall show proof of such registration.


A. The City Business License Administrator shall provide a standard form for use for registration of solicitors. The applicant shall pay a registration fee based on the fee structure approved by the City Council. The registration fee shall be reasonably related to the actual cost to the City of processing the application, investigating the facts stated therein, issuing the Certificate of Registration, maintaining the list of registered solicitors, and responding to public contact regarding solicitors. The applicant shall state upon oath or affirmation that the information is truthfully provided to the best of the knowledge and belief of the applicant. The applicant shall supply the following information and any such additional information that the Administrator may include upon the application form:

1. The applicant’s true, correct and legal name, including any former names or aliases;
2. The name, address and telephone number of any and all organizations for which applicant will be soliciting;
3. The applicant’s home address and applicant’s headquarters or place or organization contact;
4. The names and addresses of applicant’s immediate supervisor and company officers and managers, if any;
5. The purpose for which soliciting will be done; and
6. Whether a permit, license or registration in connection with soliciting has ever been revoked by any jurisdiction, explaining the circumstances.

B. The applicant shall also apply to the State Bureau of Criminal Identification for a criminal background check, and as a condition precedent to acceptance of the application for processing, the applicant shall provide to the license Administrator a certified report from the Bureau of Criminal Identification, dated within 30 days of the application, showing the criminal history, if any, of the applicant, and;

C. The applicant shall supply two (2) photographs taken within sixty (60) days immediately prior to the date of filing the application. The photographs shall measure 1½ inches by 1 inch and show the head and shoulders of the applicant in a clear and distinguishing manner.
D. Upon filing of a complete application by the applicant, and the payment of the application fee, the Administrator shall issue or deny a Certificate of Registration to the applicant within one working day, which issuance shall entitle the applicant to immediately proceed with solicitation within the City. The Administrator or designee shall conduct a review and investigation of the applicant’s application as he or she finds necessary and shall within one working day either issue the applicant a Certificate of Registration or a written reason for denying the Certificate of Registration. An incomplete application will not be accepted for processing.

E. Upon review, the Business License Administrator may refuse to issue a Certificate of Registration to the Applicant for any of the following reasons:

1. The applicant falsified information on the application.

2. No application shall be approved for an applicant:
   a. with a felony conviction within ten (10) years,
   b. who has been incarcerated in federal or state prison within the past ten (10) years,
   c. who has ever been convicted of a crime involving abuse of a child,
   d. who is on parole or probation to any court or penal institution,
   e. who has received a conviction of any crime involving moral turpitude within the past ten (10) years or a violation involving trafficking in controlled substances, or any violent acts against person or property, such conviction being entered within the five (5) years preceding the date of application;

3. The applicant is a person against whom a judgment, based upon fraud, deceit or misrepresentation, has been entered within the five (5) years immediately preceding the date of the application.

4. The applicant has been denied a permit under this Ordinance within the immediate past year, unless the applicant can and does show to the satisfaction of the Administrator the reasons for such earlier denial no longer exist.

5.31.090 Proof of Identification Required. No Certificate of Registration shall be issued to any applicant until the applicant establishes proof of identification. The Business License Administrator shall verify an applicant’s true identity and age by use of any of the following that bear a photograph of said applicant:

A. A valid driver license or identification card issued by any state;
B. A valid United States Uniformed Service Identification Card;
C. A valid passport of the United States; or
D. Other equivalent identification.

5.31.100 Registration Complete with Issuance. Registration shall be complete when the Administrator issues the Certificate of Registration.

5.31.110 Form of Certificate and Badge.
A. Each certificate shall be numbered, shall list the name of the individual solicitor and of any organization on whose behalf the solicitor is authorized to solicit, the date on which the certificate expires and shall be dated and signed by the Business License Administrator.
B. Each registered solicitor shall wear prominently on his or her person a badge issued by the City with a photograph of the solicitor submitted with the application to the City and the name and address of any entity with which the solicitor is associated. Such badge shall be worn at all times while the solicitor is engaged in soliciting.

5.31.120 Maintenance of Registry. The administrator shall maintain and make available for public inspection a record of every application received, together with any information pertaining thereto, all certificates of registration issued, and all denials of applications. Each application shall be numbered in consecutive order and each certificate issued shall be assigned a number exclusive to the registered solicitor. Every certificate renewed shall be identified with the duplicate number of the application upon which it was initially issued. The Administrator shall furnish to the Chief of Police a listing of all certificates issued and renewed and shall maintain such listing for public inspection and for identification.

5.31.130 Renewal of Certificate. A certificate shall be valid for the calendar year it is issued and shall expire at midnight on December 31 of the calendar year in which it was issued. Any certificate in good standing may be renewed upon request of the registered solicitor. The registered solicitor shall be required to fill out a renewal application providing the information required in the initial registration and pay a renewal fee which fee shall be reasonably related to the City's actual cost of processing the application and renewing the Certificate.

5.31.140 Non-transferability. Certificates of Registration shall be issued only in the name of the applicant and the firm, corporation, or association on whose behalf the applicant is authorized to solicit. The certificate shall be non-transferable from an individual to another individual, from individual to firm, from firm to firm, and firm to individual. It shall be a violation for a solicitor whose certificate authorizes soliciting on behalf of a firm named in a certificate to solicit on behalf of any other firm, organization, or association, or for any purpose other than that specified on the application. Any certificate used by a person other than the person for whom it was originally issued shall be forfeited, confiscated and immediately cancelled.
5.31.150 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 the first and last name of the solicitor, the name and address of the entity with whom the solicitor is associated and the true purpose of the solicitor’s contact with the consumer.

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 City endorses the solicitation or that the granting of a Certificate of Registration implies any endorsement by the City of the solicitor’s product or service or of the individual solicitor.

5.31.160 Revocation of Certificate. The registration of any solicitor may be revoked at any time for violating any of the terms or provisions of this Ordinance or if he otherwise becomes ineligible to continue as a registered solicitor, including, but not limited to, conviction of any felony in any jurisdiction or conviction of any crime involving moral turpitude. The Administrator shall issue a Notice of Intent to revoke any Certificate of Registration issued pursuant to the provisions of this Ordinance if the registrant is convicted of a violation of this Ordinance or otherwise becomes disqualified for the issuance of a Certificate of Registration. The Notice of Intent to Revoke shall set forth the grounds of the revocation and shall be given immediately to the registrant by personal service or by certified mail to the address listed on the application and to the organization for which the registrant was soliciting. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void and shall remain so unless the solicitor files an appeal pursuant to this Ordinance.

5.31.170 Appeal. An applicant whose registration was denied or a registrant whose certificate was revoked by the Administrator shall have the right to appeal to the City Mayor or its designee. Any appeal must be demanded in writing sent by certified mail or hand-delivered to the Business License Division within seven (7) calendar 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. If the solicitor whose registration is revoked or denied files an appeal the Certificate of Registration shall become null and void and shall remain so unless the solicitor files an appeal pursuant to this Ordinance.

5.31.180 Notice and Hearing. Notice of an appeal hearing in response to revocation of a certificate issued under this Ordinance shall be provided in writing and shall set forth specifically the grounds of the revocation and the proposed time and place of the hearing by the Mayor of the City of Logan. The appeal hearing shall be held within twenty (20) days of the written appeal by the registrant. Notice of the hearing shall be sent by the Business License Administrator to the address shown on the application or at the last known address of the registrant within seven (7) days of receiving the written appeal. The decision of the Mayor on the appeal shall be final and binding on all parties concerned.
5.31.190 “No Soliciting” Notice.

A. Any occupant of a residence desiring to secure the protection of this Ordinance shall give notice of a desire to refuse solicitors by displaying a placard or sign no smaller than 16 square inches stating “No Soliciting,” “No Solicitors,” “No Salesmen” or words of similar import 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.

5.31.200 Duties of Solicitors.

A. Every solicitor shall, prior to entering premises on which a residence or dwelling is located, examine the sidewalk leading to the residence or dwelling unit and the door and areas near the door 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 Salesmen” and “No Solicitors” signs. If such sign or placard is posted, solicitor shall desist from 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 Ordinance for any person not otherwise exempted 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 Soliciting” or similar sign or placard. It is a violation of this Ordinance for any solicitor, through ruse, deception, or concealment of a purpose to solicit, to take action calculated to secure an audience with the occupant of a residence that has posted a “No Soliciting” or similar sign or placard.

C. Any solicitor who is at any time asked by the occupant of a residence or dwelling to leave shall immediately and peacefully depart. It is a violation of this Ordinance for any solicitor to remain on the premises of a residence or dwelling after an occupant thereof has asked the solicitor to leave.

D. It is a violation of this ordinance for any solicitor to conduct peddling or solicitation activities in a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.

5.31.210 Time of Day Restrictions. It shall be unlawful for any person, whether licensed or not, to solicit any person at a residence before 9:00 a.m. and after 8:30 p.m., or on holidays (defined here as the days on which the following are observed nationally and in Utah, including New Year’s Day, Martin Luther King, Jr. Day, Presidents’ Day, Memorial Day, July
4th and 24th, Labor Day, Veteran’s Day, Thanksgiving Day, and Christmas Day) unless the solicitor has express prior permission from the resident to do so.

5.31.220 **Street Use Restrictions.** No solicitor shall have any exclusive right to any location on the public streets or roads, nor shall any be permitted in a stationary location, nor shall the solicitor be permitted to operate in any congested area where his operations might impede, inconvenience or endanger the public. For the purpose of this chapter, the judgment of a peace officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded, inconvenienced or endangered. A peddler shall apply for a sidewalk vendor license from the City should the intent be to occupy a stationary space on the public right-of-way to vend goods. A temporary merchant shall apply for the transient or itinerant merchant business license from the City to vend products or services or to promote business from a temporary stationary space on private property.

5.31.230 **Noise Prohibited.** It is 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.

5.31.240 **Sales near Churches, Schools and Playgrounds.** It shall be unlawful for any peddler 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 two blocks of any public school property in the City between the hours of 8:00 a.m. and 4:00 p.m. on all days when school is in session, or within one block of any public park or playground or church.

5.31.250 **Penalties.** Any person who engages in soliciting without complying with the requirements of this Ordinance or violates any other terms or provision of this Ordinance shall be guilty of a Class B Misdemeanor.

5.31.260 **Fees.** The fees required under this ordinance shall be paid at the time of application, shall be non-refundable, and, as approved by the Municipal Council, shall be:

A. $100 for each new application by an independent contractor/salesperson or by an association, firm, corporation or other organization (hereafter referred to as “company”) that will be occupying space in a commercial building in the City while conducting sales in the City, or

B. $60 for each new application by an independent contractor/salesperson or by a company that will be based out of a temporary or permanent residence, such as a home, hotel, motel or other dwelling unit, or from a commercial site outside the City while conducting sales in the City, and

C. $50 for each salesperson who is an employee of the company and is receiving a W-2 statement for the IRS, or who is an officer or owner of the company and will be soliciting sales in the City at any time during the calendar year of the application.
D. $80 for the company or independent contractor/salesperson renewal application if based from a commercial location in the City, or

E. $50 for the independent contractor or company renewal application if based out of any dwelling unit or from a commercial site outside the City while conducting sales in the City, and

F. $40 for each employee/salesperson renewal application.

5.31.270 Severability. The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

SECTION 5: This ordinance shall become effective immediately upon publication.

PASSED BY THE LOGAN MUNICIPAL COUNCIL, STATE OF UTAH THIS 15th DAY OF MARCH, 2005 by the following vote:

Ayes: Needham, Taylor, Swenson, Pyfer
Nays: S. Thompson
Absent: None

Laraine Swenson, Chair
Lois Price, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval on the 15th day of March, 2005.

Laraine Swenson, Chair
MAYOR’S APPROVAL OR DISAPPROVAL
The foregoing ordinance is hereby approved this 15th day of March, 2005.

Douglas E. Thompson, Mayor
DATE: March 10, 2005
TO: Municipal Council Members
FROM: D. Gay Jamieson, Administrator
SUBJECT: Code Revisions – Solicitors, General Provisions and Agricultural Vendors

This memo is to alert you to the purpose behind the inclusion of three Title 5 code revisions for Council as an action item on March 15, 2005. At this time, the City, with dozens of other local governments in Utah, is faced with litigation by the Kirby vacuum cleaner company regarding the existing solicitor code. We have engaged independent legal counsel to provide assistance with this matter. According to Peter Stirba of Stirba and Associates, PC, we are in a narrow window of opportunity to deal with the issue prior to further action on the part of the litigant. He said the plaintiffs have until March 18, 2005, to amend their complaint and our ideal litigation position would be to pass our new ordinance while no amended complaint is on file.

It is necessary to completely repeal the existing Solicitors code. Peter Stirba has reviewed, made recommendation and approved the Solicitors code draft. In order to remedy the potential for harm to the City and provide compatibility with relevant codes, it is necessary to also revise the General Provisions and the Agricultural Vendors codes. The legal counsel has reviewed and approved these drafts, as well.

Enclosed you will find the General Provisions, Agricultural Vendors, and Solicitors code drafts.

Cc: Mayor Douglas E. Thompson
LEGAL NOTICE

LOGAN MUNICIPAL COUNCIL

SUMMARY OF AN ORDINANCE passed by the Logan Municipal Council, is as follows:

ORD. 05-25. An ordinance was adopted and approved March 15, 2005 amending Sections 5.02.030, 5.02.050, 5.02.070, 5.02.140, 5.02.150, 5.02.160, 5.02.300, and 5.02.240 of Chapter 5.02, "Business License General Provisions," and Chapter 5.06, "Agricultural Vendors," repealing Chapter 5.30, "Solicitors," and adding Chapter 5.31, "Solicitors," to establish regulation of time, place and manner for solicitors, identify fees and specific appeal process, and to provide compatibility with relevant sections of other code. Any person failing to comply with the rules and regulations is guilty of an infraction and subject to citation. The ordinance is effective upon publication. Full text may be reviewed at the Office of the Logan City Recorder, City Hall, 255 North Main, during regular business hours.

Lois Price, Recorder
Publication Date: March 22, 2005