

AN ORDINANCE TO AMEND CURRENT CHAPTER TITLE OF THE UTAH COUNTY CODE CHAPTER 11 “LICENSES AND BUSINESS REGULATIONS”; AMEND CURRENT ARTICLE 11-1 “IN GENERAL”; AND AMEND CURRENT ARTICLE 11-3 “BOARD OF LICENSE EQUALIZATION”

The County Legislative Body of Utah County ordains as follows:

Part I:

Title of Utah County Code Chapter 11 “Licenses and Business Regulations” is here by amended as follows:

CHAPTER 11. BUSINESS LICENSE REGULATIONS

Article 11-1. General Provisions

Article 11-2. Sexually Oriented Business

Article 11-3. Denial, Suspension or Revocation of a License

Part II:

Article 11-1 of the Utah County Code “In General” is hereby amended as follows:

11-1. General Provisions

- 11-1-1. Definitions.
- 11-1-2. Business License Required.
- 11-1-3. Exemptions from Business License Requirements.
- 11-1-4. Business License Division -- Duties and Responsibilities.
- 11-1-5. Business License Application.
- 11-1-6. Issuance of a Business License.
- 11-1-7. Renewals of Business Licenses.
- 11-1-8. Inspections.
- 11-1-9. Payment Dates of Business License Fees.
- 11-1-10. Term of Business Licenses.
- 11-1-11. Business License Fees.
- 11-1-12. Exemptions to Business License Fee Requirements.
- 11-1-13. Transfer of License Restricted.
- 11-1-14. Display of Licenses.
- 11-1-15. Reciprocal Recognition of Business Licenses.
- 11-1-16. Penalty.
- 11-1-17. Constructive Notice of Time Periods.

- 11-1-18. Temporary Uses
11-1-19. Additional Procedures for Business Owners Holding a Valid 2010 Calendar Year Utah County Business License

11-1-1. DEFINITIONS.

(a) The following definitions shall be applicable throughout this Chapter, unless a different meaning is clearly intended:

- (1) "Applicant" means any person applying for any license provided for in the Utah County Land Use Ordinance. If the person is a partnership or corporation, then each partner, officer, or director is considered an applicant and must qualify accordingly.
- (2) "Application" means a formal written request for the issuance of any license permitted under the Utah County Land Use Ordinance.
- (3) "Authorized Officers" means those persons authorized by the County or other entities to inspect businesses and enforce the provisions of this Chapter or other applicable regulations, including peace officers, ordinance enforcement officers, and employees of the Health Department, Fire Marshal Division, Planning and Zoning Division, Building Inspection Division, County Attorney's Office and the Board of County Commissioners.
- (4) "Board of Business License Equalization" means the Board of County Commissioners of Utah County.
- (5) "Building Division" means the Building Division of the Utah County Community Development Department.
- (6) "Business" means and includes all trades, occupations, professions, or activities engaged in within Utah County, carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically provided.
- (7) "Business Licensing Division" means the Business Licensing Division of the Utah County Community Development Department.
- (8) "County" means Utah County, Utah.
- (9) "County Attorney's Office" means the Utah County Attorney Department.
- (10) "County Commission" means the County Legislative Body of Utah County.
- (11) "Director" means the Utah County Community Development Director or the Director's authorized representative.
- (12) "Employee" means all individuals who work for an employer for salary or commission or wages and who are subject to the direction and control of such employer.
- (13) "Enforcement Official" means a County employee authorized by the Director to perform inspections of a business.
- (14) "Engaging in Business" includes, but is not limited to, the sale of real or personal property at retail or wholesale; the bartering or trading of property or services; the manufacturing of goods or property; and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except for the rendering of personal services by an employee to his/her employer under any contract of personal employment.
- (15) "Fee Schedule" means the schedule of fees listed in Utah County Government Fee Schedule

- (16) "Fire Marshal Division" means the Utah County Fire Marshal Division.
- (17) "Fiscal year" means a year that begins on July 1st of a year and ends on June 30th of the following year.
- (18) "Health Department" means the Utah County Health Department.
- (19) "Person" means an individual, partnership, corporation, association, or other legal entity.
- (20) "Place of Business" means each separate location maintained or operated by the licensee, whether or not under the same name, within the County from which business is engaged in.
- (21) "Planning and Zoning Division" means the Planning and Zoning Division of the Utah County Community Development Department.
- (22) "Religious or Charitable Organization" means any organization that has provided written approval from the Internal Revenue Service that the organization has been granted tax-exempt status under Section 501(c) (3) of the Internal Revenue Code or its successor statute.
- (23) "Sheriff Department" means the Utah County Sheriff's Department
- (24) "Violated" or "Violating" means that there exists reasonable cause to believe that any ordinance, code, statute, or law has been or is being violated, and is not limited to pleas of guilty or convictions for violating said ordinances, codes, statutes, or laws.

11-1-2. BUSINESS LICENSE REQUIRED.

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

(b) In addition to any criminal prosecution or civil proceedings, if any person found violating this Section later applies for a license and if a license is granted, the following penalty fees shall be paid, in addition to the license fee:

- (1) The penalty fee shall be 100 percent of the license fees for the first year, and the business shall pay an additional penalty for each year or portion of a year in which the business operated without a license in an amount equal to 125 percent of the current business license fees.
- (2) The County Commission may reduce or waive the penalty fees to be paid by a business operating without a license one time per calendar year, for the purpose of encouraging unlicensed businesses to properly license.

11-1-3. EXEMPTIONS FROM BUSINESS LICENSE REQUIREMENTS.

(a) Any business exempt from the business license requirements as provided in this Section must comply with all other requirements of the Utah County Land Use Ordinance, Utah County Code, and State of Utah. The following activities shall be exempt from the requirement of obtaining a business license:

- (1) The production and selling of fruit produce or field crops on the premise from which they are grown, approved Farmers' Market and approved produce stands;
- (2) The raising and selling of domestic livestock, domestic fowl and eggs produced by said

- fowl when raised on the premise and sold from the same premise;
- (3) The raising or sale of mink, beaver, nutria, and similar fur-bearing animals, when raised on the premise and sold from the same premise, when neither the mixing, manufacturing, nor processing of such animal feeds is included;
 - (4) The sorting or washing of agricultural products by the producer of the products, provided no heat process is included and the nature of the product is not modified;
 - (5) The mixing of feeds for domestic livestock and fowl for the exclusive use of the person or entity making the feeds, provided no heat process is included, no animal by-products are included, and the nature of the product is not modified;
 - (6) Garage and yard sales of used personal goods, when such sales are held no more frequently than once per quarter of each calendar year for not more than three (3) continuous days on the premise;
 - (7) A religious or charitable organization engaged in business solely for religious, charitable nonprofit purposes, provided that the organization has been determined to be tax exempt in such activities under the laws of the United States and the State of Utah;
 - (8) Any person engaged in a business specifically exempted from taxation and business licensing fees by the laws of the United States or the State of Utah.
 - (9) A business owned and operated solely by any child age 17 or under, with no other employees, representatives or agents and with gross annual business revenue of \$2,000 or less;
 - (10) Public utilities and communication facilities; and.
 - (11) A child day care business which is operated within a residence that is not required by the State of Utah to obtain a State of Utah Child Care license or certificate.

11-1-4. BUSINESS LICENSE DIVISION — DUTIES AND RESPONSIBILITIES.

- (a) It shall be the duty and responsibility of the Business Licensing Division to:
 - (1) Enforce the provisions of this Chapter;
 - (2) Determine business classifications and applicability of the regulations of this Chapter;
 - (3) Collect all business license fees;
 - (4) Process all applications and renewals of all licenses provided for in this Chapter;
 - (5) Obtain the necessary approvals from the various County departments and divisions before issuing any business license;
 - (6) Deny, suspend or revoke licenses as provided in this Chapter; and
 - (7) Maintain a current list of all business licenses.

11-1-5. BUSINESS LICENSE APPLICATION.

(a) The Utah County Community Development Business Licensing Application shall be in such format and require such information as the License Officer deems necessary to enforce this Chapter. It is a violation of this Chapter to provide false or misleading information on a business license application.

11-1-6. ISSUANCE OF A BUSINESS LICENSE.

- (a) The procedures to receive a business license shall be the following:
 - (1) The applicant shall complete an application for a business license zone clearance and

return it to the Business License Division. As soon as the zone clearance has been completed it shall be returned to the applicant.

- (2) The Business License Division shall submit copies of the business license zone clearance application to the Building Division, Fire Marshal Division, and the Planning and Zoning Division.
- (3) If the zone clearance is approved, the applicant shall complete the application for a business license in full and sign it as verification under penalty of perjury that all information contained therein is true.
- (4) If the zone clearance is disapproved or conditionally approved, no business license application can be submitted until all outstanding items of disapproval have been successfully completed by the applicant to bring the proposed business location into compliance with all County and State laws prior to making application for a business license.
- (5) The application shall be returned to the Business License Division along with full payment of all business license fees.
- (6) The Business License Division shall submit copies to the Sheriff Office and Health Department.
- (7) Only after receiving approval (email or written) from each of the entities named in this Section, the Business License Division shall be authorized to prepare a certificate of license for issuance.
- (8) The certificate of license shall contain the following information:
 - (A) The name of the person to whom the certificate is issued;
 - (B) The business name;
 - (C) The type of business licensed;
 - (D) The date the license was issued;
 - (E) The expiration date of the license;
 - (F) The address of the place of business licensed; and
 - (G) The business license number.
 - (H) If the business is licensed to conduct more than one type of business, as defined herein, the certificate of license shall state each type of business licensed.

11-1-7. RENEWALS OF BUSINESS LICENSES.

(a) Each fiscal year, licensees shall renew their business licenses by completing an application for a license renewal signed under penalty of perjury that all information contained therein is true, and returning it, along with the proper fees, to the Business License Division within the time period set forth in this Chapter.

(b) Upon receipt of the application and fees the Business License Division shall submit copies of the applications to the Planning and Zoning Division, Health Department, Sheriff Department, and Fire Marshal Division.

(c) The Business License Division shall be authorized to prepare a certificate of license as provided in this Chapter as long as there is not a violation on file.

11-1-8. INSPECTIONS.

(a) The Director may designate any division employee as an enforcement official. Authorized officers shall be permitted to make an inspection to enforce any of the provisions of this Chapter,

the Utah County Land Use Ordinance, or any other applicable statute or ordinance, and may enter any building or may enter upon any premises during regular business hours; or, if there are no regular business hours, the officers or their authorized representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If the property owner or other responsible person refuses to allow the enforcement officers to enter and inspect the property, the officer may obtain and execute a search warrant.

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

11-1-9. PAYMENT DATES OF BUSINESS LICENSE FEES.

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

(b) Business license fees for renewal businesses shall be due and payable on or before July 1st of each year. If the license is not paid within a month of the due date, a penalty in the amount of 50 percent of the fee shall be added to the original amount due. If the fee is still not paid within two months of the due date, a penalty in the amount of 75 percent of the fee shall be added to the original amount due. If the fee plus penalty is still not paid within three months, then the business shall be considered to be operating without a business license and closed or be considered in violation of this Chapter, subject to criminal prosecution for every day of operation after three months from the due date, and the license fee, if a license is granted thereafter, shall be doubled.

(c) Penalty fees may be appealed to the Director who may, for good cause shown, refund all or part of the applicable penalty fee that has been paid. The decision of the Director may be appealed to the Board of County Commissioners as set forth in this Chapter. The Board of County Commissioners may, upon good cause, recommend that all or part of the penalty fee be refunded.

11-1-10. TERM OF BUSINESS LICENSES.

(a) A newly issued business license is valid from the date of issuance through June 30th of the current fiscal year.

(b) A renewed business license is valid for a fiscal year of July 1st of the then current year through June 30th of the ensuing year.

11-1-11. BUSINESS LICENSE FEES.

(a) All business license fees shall be those set forth in the Utah County Government Fee Schedule.

(b) The fees are categorized in the Fee Schedule by type of business. If a particular type of business is not listed in the Fee Schedule, the Director shall determine the category that most closely fits the business.

(c) The fee for an initial application received after December 31st of the then current fiscal year shall be ½ (one-half) of the annual business license fee for the specific business category.

11-1-13. TRANSFER OF LICENSE RESTRICTED.

(a) Business licenses may be transferred to another person for the same location upon the new person making application and being able to qualify for such license under this Chapter and paying

the business license renewal fee as set forth in the Utah County Fee Schedule. The business must currently hold a valid Utah County Business License and not be in violation with this Chapter, the Utah County Land Use Ordinance, or all other applicable Laws.

(b) A Business License may not be transferred to a new location within the County. Each location shall be applied for and all appropriate fees shall be paid for each location.

11-1-14. DISPLAY OF LICENSES.

(a) Every certificate of license for a business shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When the certificate of license has expired, it shall be removed and no certificate of license which is not in force shall be permitted to remain posted within the place of business. If the licensee's business is such that a license cannot be displayed in a secure place due to the nature of the business, then the location of the license shall be determined by the Business License official.

11-1-15. RECIPROCAL RECOGNITION OF BUSINESS LICENSES.

(a) Except as otherwise provided herein, a business license shall not be required of any person who is duly licensed in another county or another city in Utah, has no business location in the County and the county or other licencing city would also reciprocate if the same business were located in the county. Reciprocity shall not be granted to transient businesses and solicitors.

11-1-16. PENALTY.

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

(b) Where applicable, each day of noncompliance shall constitute a separate violation.

(c) The business owner, and the owner of the property where the business is located, if the property owner is different than the business owner, are both responsible for compliance with this Chapter, and both may be charged with violations. Nothing in this Section shall limit the right of a property owner to seek any legal remedy from a business owner who causes or allows a violation of this Chapter on the property.

(d) The operation of an unlicensed business, or the operation of a business at variance with the terms and conditions imposed in granting the license (including the requirement that the business be operated in accord with County ordinances and State laws), is hereby declared to be a nuisance as listed in Chapter 12 of this Code. The County Attorney may, in addition to any other remedy available at law or in equity, maintain civil action to recover any a unpaid license fee or criminal action pursued as hereinafter provided, institute injunction, abatement, or any other appropriate action to enjoin, abate, or remove the offending business or activity.

11-1-17. CONSTRUCTIVE NOTICE OF TIME PERIODS.

(a) All businesses, owners, licensees, and applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with said time periods and/or deadlines as set forth in this Chapter relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, or any other licensing matters set forth in this Chapter.

(b) Nothing in this Chapter shall be construed as requiring the County to take any affirmative action to notify businesses, owners, licensees, or applicants of any time periods and/or deadlines or the effect of noncompliance with said time periods and/or deadlines set forth in this Chapter relating

to the application, issuance, renewal, expiration, appeal or other action relating to business licenses or any other licensing matters as set forth in this Chapter.

11-1-18. TEMPORARY USES.

(a) A temporary use permit issued pursuant to the provisions of Utah County Land Use Ordinance constitutes a business license for that temporary use which license automatically expires with the temporary use permit.

11-1-19. PROCEDURES FOR BUSINESS OWNERS HOLDING A VALID 2010 CALENDAR YEAR UTAH COUNTY BUSINESS LICENSE.

(a) Procedures for business owners holding a valid 2010 calendar year Utah County Business License with an expiration date of December 31, 2010 are as follows:

- (1) The current 2010 license will remain valid until December 31, 2010 as long as all terms and conditions imposed in granting the license including the requirement that the business be operated in accord with County ordinances and State laws are complied with;
- (2) Application for renewal for the period of January 1, 2011 through June 30, 2011 shall be made to the Business Licensing Division between January 1, 2011 and January 31, 2011;
- (3) The Business Licensing Division staff shall date and accept the application if it is properly completed and accompanied by the required fee of one-half (½) of the of the total annual fee;
- (4) Upon receipt of an application for renewal, the Business Licensing Division staff shall submit copies of the application to the Planning and Zoning Division, Health Department, Sheriff Department, and Fire Marshal Division;
- (5) Immediately upon receipt or at any time prior to February 1st of the renewal year, the Business Licensing Division staff shall act on the renewal application upon examination to determine that it is complete, that it is for the same location and business activities as the prior license period, and that no unresolved statements of disapproval from the aforesaid review departments are on file. Action on license renewal shall be followed by sending a notice of renewal along with any conditions thereof, or disapproval along with the reasons thereof, to the applicant;

Part III.

Article 11-3 of the Utah County Code is hereby amended as follows:

11-3. DENIAL, SUSPENSION OR REVOCATION OF A LICENSE

11-3-1. Denial of a Business License.

11-3-2. Reasons for Suspension or Revocation.

11-3-3. Enforcement.

11-3-4. Procedure for Suspension or Revocation.

11-3-5. Designation.

11-3-6. Duties.

- 11-3-7. Meeting; Records
- 11-3-8. Action by the Board.
- 11-3-9. Appeal Requirements and Procedures
- 11-3-10. Filing Costs; Salaries
- 11-3-11. Notification of Decisions; Recourse

11-3-1. DENIAL OF A BUSINESS LICENSE.

(a) After a person has made application to the County for a business license, the application may be denied for any of the following reasons:

- (1) The applicant does not meet the qualifications for a licensee as provided under this Chapter.
- (2) Failure of the applicant to pay all fees and penalties.
- (3) One of the reviewing departments or divisions of the County provided for in this Chapter has disapproved the application pursuant to any applicable provision of the County Code.
- (4) False or incomplete information given on the application.
- (5) Noncompliance with any requirement or condition set by the Planning Commission, Board of Adjustment, Planning and Zoning Division, or County Commission, if applicable, under a conditional use permit, variance, special exception, agreement, or noncompliance with the Utah County Land Use Ordinance.
- (6) Noncompliance with any County, state or federal statutes or any Health Department regulations governing the applicant's proposed business.
- (7) Any other reason expressly provided for in this Chapter.

11-3-2. REASONS FOR SUSPENSION OR REVOCATION.

(a) An existing business license may be suspended or revoked for any of the following reasons:

- (1) The licensee fails to maintain compliance with the qualifications for a licensee as provided under this Chapter;
- (2) Failure of the licensee to pay all fees and penalties;
- (3) False or incomplete information given on an application;
- (4) The licensee has violated or is violating any provision of this Chapter or provision of the County Code, state or federal statutes or regulations governing the licensee's business.
- (5) The licensee has obtained or aided another person to obtain a license by fraud or deceit;
- (6) The licensee has failed to pay property taxes or sales tax;
- (7) The licensee has refused authorized representatives of the County to make an inspection or has interfered with such representatives while in the performance of their duty in making such inspection;
- (8) The licensee is not complying with a requirement or condition set by the Planning Commission, Board of Adjustment, Planning and Zoning Division, or County Commission under a conditional use permit, variance or special exception; by agreement;
- (8) Violation of this Chapter by the agents or employees of a licensee and violations of any other laws by the agents or employees committed while acting as an agent or employee of the licensee; or

(9) Any other reason expressly provided for in this Chapter.

11-3-3. ENFORCEMENT.

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

(b) The License Officer shall have the authority to suspend or revoke a license without a hearing, for reasons provided for in this Chapter. However, the suspension or revocation shall not take effect until the time period for appealing the decision to the board of License Equalization as set forth in this Chapter below has passed, or, if a timely appeal is so filed, the Board of License Equalization has issued its decision.

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

11-3-4. PROCEDURE FOR SUSPENSION OR REVOCATION.

(a) The License Officer shall cause written notice to be given the applicant or licensee of the decision to deny, suspend, or revoke a license.

11-3-5. Designation.

(a) The Board of County Commissioners is hereby constituted as a Board of License Equalization. (Ord. No. 1984-07, Pt, 3, 3-12-84; Ord. No. 2004-11, 6-15-04)

11-3-6. Duties.

(a) The Board of License Equalization (the "Board") shall meet and hear an appeal by an aggrieved licensee or license applicant, or other party, who alleges that an error was made by a County officer or other party who alleges that a business is not in compliance with applicable State and County laws and regulations.(Ord. 2004-11, 6-15-04)

11-3-7. Meetings; records.

(a) The Board shall conduct a hearing wherein the appellant, and any other party having information relative to the appeal, shall be heard. Before holding such hearing, the Board shall notify the subject licensee or license applicant at least seventy-two (72) hours in advance thereof and give the time, place, and a brief statement of the allegations to be considered therein. Minutes shall be kept of the hearing, and shall include the action of the Board taken at the end of the hearing. The minutes shall be a public record. (Ord. 2004-11, 6-15-04)

11-3-8. Action by the Board.

The Board, at the conclusion of the hearing, shall take action to grant or deny the appeal, or continue deliberations to a time certain, based upon the applicable State and County laws and regulations and such standard rules of procedure as it may have adopted for the purpose of hearing appeals.(Ord. 2004-11, 6-15-04)

11-3-9. Appeal Requirements and Procedures.

(a) When the Board of License Equalization (the "Board") acts under its power to hear and decide appeals in which it is alleged that there is an error in an order, requirement, decision, or

determination made in the administration or interpretation of Article 11-1 of the Utah County Code, “Licenses and Business Regulations, In General” (the “Business Code”), the Board shall not grant a reversal or any other relief appealed for unless the Board finds that all of the following standards have been met:

- (1) The appellant has filed a properly completed written application for appeal, which states with specificity the nature of the alleged error and how the appellant has been adversely affected by said alleged error.
- (2) The application for appeal was properly filed with the Secretary of the Board of County Commissioners of the County within twenty (20) calendar days after the date of the decision being appealed. The twenty (20) calendar day appeal deadline is jurisdictional, and the Board shall dismiss the appeal if the Board finds that the application for appeal filing deadline has not been met.
- (3) The appellant has been adversely affected by the subject decision applying the Business Code.
- (4) Prior to filing the appeal with the Board, and within ten (10) calendar days after the date of the decision being appealed, the appellant has presented to the administrator, or other person or entity which made the decision in question, with a claim of error which fully sets forth a statement of the facts and the nature of the claim of error. Within fifteen (15) calendar days of the date of the decision being appealed, the administrator, or other person or entity which made the decision in question may, but is not required to, respond in writing to the claim of error. The claim of error shall be deemed denied if the administrator, or other person or entity which made the decision in question, fails to timely approve or deny the claim of error or otherwise respond. A copy of the claim of error, and any response received, shall be attached to the appeal application. The ten (10) calendar day claim of error deadline is jurisdictional, and the Board shall dismiss the appeal if the Board finds that the claim of error filing deadline has not been met.
- (5) The decision in question must be one made in applying the Business Code, not some other state or county law, office policy, personnel matter, or other decision beyond the purview of the Business Code.
- (6) If the Board grants the appellant’s request, the result must be consistent with the provisions of the Business Code, and not waive or modify any of the terms or requirements thereof. (Ord. 2004-11, 6-15-04)

11-3-6. Filing costs; salaries.

(a) The Board by resolution may fix a filing fee for appeal applications to cover the administrative costs of handling the application and giving notification of hearings. The Board shall not receive a salary, other than its regular salary of office of Commissioner. (Ord. 2004-11, 6-15-04)

11-3-7. Notification of decision; recourse.

(a) The Board shall notify the parties of its decision.

(b) Any person adversely affected by any decision of the Board may file a petition with the 4th District Court for Utah County for a review of that decision. Any such appeal or petition shall be barred unless it is filed within twenty (20) calendar days of the date when the decision is filed with the Secretary of the Board. The petition shall be limited to the allegation that the decision of the

Board was arbitrary, capricious, or illegal.

(c) The Board shall transmit to the reviewing court the complete record of its proceedings, including applications, exhibits, minutes, findings, orders, and any transcript of tape recordings which may be on file with the Board. The person or entity filing the petition for review shall request from the secretary to the Board a verbatim transcript of the record and such person or entity shall pay the reasonable transcript fees as set by the Board. If there is a record, the review of the District Court is limited to the record, and the Court may not accept or consider evidence outside of the record unless it determines that such evidence was offered to the Board and improperly excluded. If there is no record, the Court may call witnesses and take evidence.

(d) The Court shall affirm the decision of the Board if the decision is supported by substantial evidence in the record.

(e) Filing a petition for review with the Court does not automatically stay the decision of the Board.

(1) Before filing the petitions for review with the court, the aggrieved party may petition the Board to stay its decision. The board shall take action on any petition to stay only in a meeting where property notice was given and where a quorum is present. Upon considering such petition to stay, the Board may grant the stay if it finds such to be in the best interests of the County.

(2) After filing a petition for review with the court, the petitioner may seek an injunction staying the decision of the board.

(f) No decision of the Board shall be subject to rehearing by the Board, except when remanded from a court of competent jurisdiction.

11-3-8 Applicability to Sexually Oriented Business.

(a) The provisions contained in Article 11-3 shall be applicable to licenses related to Sexually Oriented Business unless a more specific provision is contained in Article 11-2, in which case the more specific provisions contained in Article 11-2 shall apply.

Part IV:

Insert pages reflecting the above amendments, including a title page which bears the enactment date of this ordinance, are hereby ordered to be filed in the copy of the Utah County Code which is on file with the Utah County Clerk/Auditor.

Part V:

If any of the sections, sentences, clauses or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

Part VI:

This ordinance shall become effective fifteen (15) days after its passage, and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this _____ day of October, 2010.

UTAH COUNTY COMMISSION

VOTE

STEVE WHITE, CHAIR

LARRY A. ELLERTSON, COMMISSIONER

GARY J. ANDERSON, COMMISSIONER

ATTEST:
BRYAN E. THOMPSON
Utah County Clerk/Auditor

By: _____
Deputy

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
Utah County Attorney

_____ Approved

_____ Disapproved

By: _____
Deputy

Date of Publication: Once only, as soon as possible