

TITLE 3
BUSINESS AND LICENSE REGULATIONS

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CHAPTER 1

COMMERCIAL BUSINESSES

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3-1-1: **PURPOSE:** The purpose of this title is to regulate the operation of businesses within the corporate limits of the city to promote the health, safety and welfare of the citizens. (11-8-2001, eff. 11-8-2001)

3-1-2: **DEFINITIONS:** For purposes of this title, the following terms, phrases, words and their derivations shall have the meanings given herein:

BUSINESS: All kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of commercial activities and matters, including

the keeping of a machine, which are conducted for private profit or benefit, either directly or indirectly, on any premises in the city or anywhere else within its jurisdiction.

- CITY:** Fruit Heights City.
- CITY COUNCIL:** The Fruit Heights City council.
- GENDER:** Any references to the male gender shall include both the male and female sexes.
- LICENSE:** The right to conduct a business in accordance with this title, including connotations of the word "permit", and including the special privilege granted anyone for the purpose or length of time pursuant to this title; also, the printed evidence of such right.
- MACHINE:** Any coin operated device.
- NONPROFIT ENTERPRISE:** Any organized undertaking, project, occupation or activity, whether permanent or temporary, which is operated without private profit and for a public charitable, educational, fraternal, religious or other philanthropic purpose.
- PERSON:** Any natural person, partnership, joint venture, society, association, club, trustee, trust or corporation, or any officer, agent, employee, factor or other personal representative of any thereof, in any capacity, acting either for himself or for any other natural person under either personal appointment or pursuant to law.
- PREMISES:** Any land, structure, place, item of equipment or appurtenance connected or used therewith in any business, and also, any personal property which is either affixed to or is otherwise used in connection with the operation of any business.
- SPECIAL SALES:** Anything out of the ordinary that would normally meet the definition of a "business".

ZONING ADMINISTRATOR: The official representative or agent of Fruit Heights City authorized to administer this title. (11-8-2001, eff. 11-8-2001)

3-1-3: APPLICATION OF REGULATIONS:

- A. Compliance Required: It is unlawful for any person, either directly or indirectly, to conduct or operate any business or nonprofit enterprise, or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, without first obtaining a license to do so and without keeping such license in effect at all times during the conduct or operation thereof.
- B. Special Sales: This title shall apply to all businesses in the nature of special sales and it is unlawful for any person, either directly or indirectly, to conduct any such sale except in conformity with the provisions of this title.
- C. One Act Constitutes Doing Business: For the purpose of this title, any person shall be deemed to be conducting a business or nonprofit enterprise and thus be subject to the requirements of this title, when he does one act of:
1. Selling any goods or services;
 2. Soliciting business or offering goods or services for sale or hire;
 3. Using any vehicle or any premises in the city for a business purpose.
- D. Agents Responsible For Obtaining License: Any agent or other representative who is doing business in the city shall be personally responsible for compliance with this title by his principal for the business he represents, and shall be subject to the penalties hereof in the event the business is not licensed in accordance with this title.
- E. Separate License For Branch Establishments: A license shall be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in as if it were a separate business; but warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this title shall not be deemed to be separate places of business or branch establishments. Each parcel or unit of rental real

property shall be deemed a branch establishment or separate place of business for the purposes of this title when there is a representative of the owner or the owner's agent on the premises who is authorized to transact business for such owner or owner's agent, or there is a regular employee of the owner or the owner's agent working on the premises.

- F. **No License Required For Mere Delivery:** No license shall be required of any person for the mere delivery in the city of any property purchased or acquired in good faith from such person at his regular place of business outside the city where there is no evidence of intent by such person to evade the provisions of this title.
- G. **Special Permits To Nonprofit Enterprise:** The zoning administrator shall issue special permits without the payment of any license fee or any charges therefor to any person or organization for the conduct or operation of a nonprofit enterprise.

1. Application for a special permit shall be submitted to the zoning administrator upon forms furnished by him and shall contain such information, including affidavits, as the zoning administrator shall require;

2. A person or organization operating under a special permit shall operate his nonprofit enterprise in compliance with this title and all other applicable rules and regulations, except as provided herein. (11-8-2001, eff. 11-8-2001)

3-1-4: **EXEMPTIONS TO REQUIREMENTS:** To those firms corporations, partnerships, persons or individuals, or professional people, who are practicing their professions or trades by reasons of and virtue of a license, permit, grant or authority of the state, or a state institution or department or branch of the state, only the premises use and fee portions of this title are applicable and nothing herein contained shall be construed as granting to the city any regulatory power whatsoever over professional or trades people licensed and regulated by the state or any branch or department or state association. (11-8-2001, eff. 11-8-2001)

3-1-5: **ADMINISTRATION:**

- A. **Collection Of Fees:** The zoning administrator shall be responsible for the collection of all license and permit fees, and the issuance of

licenses and permits in accordance with the provisions of this title. He shall have the authority and responsibility necessary for the proper administration of this title, and shall:

1. Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this title;
 2. Adopt all forms and prescribe the information to be given therein as to character and other relevant matters for all necessary papers;
 3. Require applicants to submit all affidavits and oaths necessary to the administration of this title;
 4. Submit all applications in proper cases of interest to city officials, and the fire department, police department, and county health department for their endorsements thereon as to compliance by the applicant with city ordinances and regulations which such officials have the duty of enforcing;
 5. Investigate and determine the eligibility of any applicant for a license as prescribed herein.
- B. Information Confidential: The city shall keep all information furnished or secured under the authority of this title in accordance with the government records access management act (GRAMA). (11-8-2001, eff. 11-8-2001)

3-1-6: QUALIFICATIONS OF APPLICANT:

- A. Character: In order to procure a license under this title, every applicant shall be of good moral character. In making such determination, the zoning administrator shall consider:
1. All felony convictions involving moral turpitude of the applicant, the reasons therefor and his demeanor subsequent to such conviction;
 2. The license history of the applicant, whether such person, in previously operating in this or other states under a license, has had such license revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action;

3. Any additional facts concerning the applicant's moral character which are relevant to the operation of the business for which a license application has been made and its affect on the public.
- B. Prior Defaults: The zoning administrator may refuse to grant a license to any applicant who has wilfully refused previously to comply with the provisions of this title where compliance was required, or who is indebted to the city on any past due obligations.
- C. Zoning Conflict: No license shall be granted to any applicant where there is a conflict with the zoning ordinance. (11-8-2001, eff. 11-8-2001)

3-1-7: **LOCATION REQUIREMENTS:** All commercial business, except agricultural businesses, which may sell from their property products raised or grown on that property, shall be operated solely within commercial zones. (11-8-2001, eff. 11-8-2001)

3-1-8: **PROCEDURE FOR ISSUANCE OF LICENSE:**

- A. Formal Application Required: Every person conducting or operating a business or nonprofit enterprise shall apply to the zoning administrator for a license to do so. The application shall be in writing, upon forms provided by the city and shall be sworn to by the applicant. The form shall require the disclosure of all information necessary to enable the zoning administrator to determine whether the applicant is qualified under the provisions of this title and shall disclose any other information which the zoning administrator shall find to be reasonably necessary to administer this title. Fees for all licenses for which application is made shall be paid at the time of application.
- B. Inspections: The premises to be used for any business applying for a license hereunder shall have been approved by the Davis County health department, fire department, and sheriff's department, and shall be in compliance with all building, zoning and other applicable laws and ordinances. The costs for any and all inspections required by the aforementioned agencies shall be borne by the applicant.
- C. Duplicate License Procedure: A duplicate license or special permit shall be issued by the zoning administrator to replace any license previously issued which has been lost, stolen, defaced or destroyed without any wilful conduct on the part of the licensee, upon the filing

by the licensee of a sworn statement attesting to such fact and the payment of a fee as set by resolution of the city council.

- D. **Nonapproval Of License:** No applicant shall engage in a business for which a license has been refused during the pending of any action instituted by the applicant to compel the issuance of such license, except pursuant to an order of a court of competent jurisdiction. Written notice of disapproval setting forth the reasons therefor shall be given to the applicant by the planning commission. In no case shall the application fee be refunded.
- E. **Request For Hearing:** Any person whose application for license has been disapproved by the planning commission may within ten (10) days of receipt of notice thereof submit a written request for hearing to the city. The city shall thereupon fix the time for, give written notice of, and the city council shall hold a hearing within twenty one (21) days of receipt of the request for hearing. The deposit of the notice received in the United States mail, addressed to the person affected and with postage prepaid, shall constitute personal service of the written notice.
- F. **Right Of Appeal:** Any person aggrieved by the decision of the zoning administrator after hearing shall have the right to appeal to the city council by filing a written appeal with the zoning administrator within ten (10) days following the effective date of the action or decision complained of. A time for hearing shall be fixed and not less than five (5) days' notice thereof shall be given to the appellant. Following the hearing, the city council shall make and enter findings of fact and an order, and its decision shall be final and conclusive and shall be served upon the appellant personally or by mail. (11-8-2001, eff. 11-8-2001)

3-1-9: **CLASSIFICATIONS OF BUSINESSES; FEES:** The following businesses, activities, persons or machines shall be licensed and a fee shall be paid in accordance with the latest fee schedule adopted by the city council. The city council shall set the appropriate fees by resolution. The respective lists are not deemed exclusive, and any similar business, activity, person or machine, though not listed, shall be licensed and shall pay the fee required for the category into which it logically fits.

- A. **Professional:** A person operating a business which uses professionally trained persons shall pay a license fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

Architects
Attorneys at law
Certified life underwriters
Certified public accountants
Chiropodist
Chiropractors
Dentists
Embalmers
Funeral directors
Medical doctors
Nurses, registered
Opticians
Optometrists
Osteopaths
Pharmacists
Physical therapists
Professional engineers
Professional land surveyors
School teacher, private
Veterinarians

- B. Personal Services: Any person operating a personal service business shall pay a license fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

Assayers
Auctioneers
Barbershops
Beauty shops
Brokerage firms
Brokers
Carpet and rug cleaning and repair
Cemeteries
Cleaning and pressing
Cold storage
Collection agencies
Dance studio
Day nurseries
Fumigators
House cleaning services
Insurance agents
Job printers
Laundries
Laundry solicitors

- Meat storage and processing
- Messenger service
- Ore samplers
- Photographers
- Real estate brokers
- Sales persons
- Securities dealers
- Shoemakers and repair shops
- Tailors
- Taxi service

- C. **Repair Services:** A person operating a business for repairing, rebuilding, renovating, custom design and/or construction or for premanufactured goods shall pay a license fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

- Auto wrecking
- Automobile repair shops
- Blacksmith shop
- General repairs
- Junk dealers
- Machine repair shops
- Upholstery
- Watch repair
- Welding and repair

- D. **Retail Business And Business Service:** A person operating a business in retail sales or offering business services shall pay a license fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

- Advertising agencies
- Advertising agents
- Airplane, commercial companies
- Apartment houses
- Auto camps
- Automobile dealers
- Bakery
- Banks
- Bicycle shops
- Bill posters
- Book agents
- Book stores
- Bottling works

Cafes
Cigar stands
Clothing stores
Coal dealers
Commission merchants
Confectionery stores
Dairies
Distributor, fuel oils
Drugstores
Electric appliance stores
Express and transfer businesses
Feed stores
Film stores
Finance companies
Florists
Fruit and vegetable stands
Furniture stores
Garbage collections
Gas appliance stores
General merchandise stores
Grocery stores
Haberdasher stores
Hatter shops
Hawkers
Hide dealers
Hot dog stands
Ice cream establishments
Ice dealers
Implement houses
Jewelry stores
Livery stables
Lumber and coal dealers
Lumber and hardware dealers
Lumber dealers
Magazine shops
Meat dealers
Merchandise peddlers
Merchants
Milk vendors
Millinery stores
Monument makers
Music stores
Notions
Nurseries and horticulture
Oil and gas stations

- Paint stores
- Pharmacy
- Photography supply stores
- Poultry dealers
- Public scales
- Publishers
- Rabbitry
- Rendering plant
- Restaurants
- Soda fountains
- Soft drinks
- Storage houses
- Swimming pools
- Television or radio repair, electronics
- Tourist courts
- Truck dealers
- Video stores
- Vulcanizing

- E. Lodging: Any person operating a business for lodging shall pay a license fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

- Bed and breakfast
- Hotels
- Inns
- Motels

- F. Contractors: A person operating a contracting or subcontracting business, or a business utilizing any other form of the building trades, shall pay a license fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

- Carpenters
- Carpet contractors
- Electricians
- Excavators
- Fencing
- General contractors
- Glaziers
- Heating and ventilating
- Insulators
- Linoleum contractors
- Masonry brick and block contractors
- Painters

- Pipe fitters
- Plasterers and wall finishing
- Plumbers
- Roofing companies contractors
- Sheet metal contractors
- Sign contractors
- Tile companies
- Tinsmiths
- Weather stripping contractors

- G. Manufacturing And Processing: A person operating a manufacturing or raw material processing business shall pay a license fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

- Cement block manufacturing
- Creameries
- Dairy products processing
- Factories
- Flour mills
- Meat packing and processing
- Planing mills

- H. Amusements: A person operating an entertainment or amusement business shall pay a license fee as set by resolution and an additional fee as set by resolution. The following are examples of, but not limited to, businesses included in this category:

- Billiard parlors
- Bowling alleys
- Cabarets
- Dance halls
- Golf games other than regular golf
- Pool halls
- Shooting alleys
- Shows other than regular theaters
- Skating rinks
- Theaters
- Trampolines

- I. Machines: A person operating a business which uses any of the following machines in the course of, as part of, or incidental to a business, shall pay a license fee which is additional to any other license fee. Such additional fee shall be set by resolution. The following machines are included in this category:

Jukeboxes
 Marble machines
 Shuffleboard, coin operated
 Vending machines
 Other vending or recreational machines

- J. Special Categories: Any person operating any of the following examples as a business shall pay the appropriate license fee as set by resolution:

Boxing exhibitions
 Carnival
 Circus
 Exhibiting apparatus
 Exhibiting for test and skill
 Exhibiting freaks
 Exhibiting machines
 Exhibiting natural
 Fakers
 Fortunetellers
 Merry-go-rounds
 Palmist
 Parade curiosities
 Phrenologist

(11-8-2001, eff. 11-8-2001)

3-1-10: EXEMPTIONS TO FEES:

- A. Specified: The provisions of this chapter requiring the payment of license fees shall not apply to any of the following: (11-8-2001, eff. 11-8-2001; amd. 2006 Code)

1. Any person transacting or carrying on any business excepted from the payment of such license fees to municipal corporations by virtue of the constitution or statutes of the United States or of the state;

2. Any person or group of persons conducting any fair, festival, bazaar, entertainment or enterprise solely for the benefit of any eleemosynary (charitable as an example) institution where such activity is conducted for a period not to exceed three (3) consecutive days. These groups will not be exempted from any public safety or health regulations;

3. Any person or group of persons conducting any exhibition or entertainment given for the benefit of any church, school, amateur, dramatic or literary group or society, or any nonprofit organization for charitable or public purposes, where such activity is conducted for a period not to exceed three (3) consecutive days. These groups will not be exempted from any public safety or health regulations;

4. Any person selling farm products on their own property, including wood, but not including dairy products, where the same are actually produced, raised or grown by such person on their property.

- B. Statement Filed: Any person claiming exemption pursuant to this section shall file a verified statement with the zoning administrator stating the facts upon which exemption is claimed. The zoning administrator shall, upon a proper showing contained in the verified statement, issue a license to a person claiming exemption under the provisions of this section without payment to the city of the license fee required by this chapter. Every person claiming exemption from payment of any license fee provided in this section upon the grounds of an imposition of such fee casts an unlawful burden upon his right to engage in commerce with foreign nations or among the several states or conflicts with the regulation with interstate commerce by the United States, shall file a verified statement with the zoning administrator disclosing the interstate or other character of the type of business entitling such exemption. Such statement shall state the name and location of the person for which the nearest local or state manager, if any, and his address, the kind of goods, wares, merchandise, or other service to be delivered or performed, the method of solicitation or taking orders, the place from which the same are to be shipped or forwarded or the services performed, the location of any warehouse, factory or plant within the state, the method of delivery, the name and location of the residence of the applicant, and any other facts necessary to claim exemption. A copy of the order blank contract form, or other papers used by such person, shall be attached to the verified statement. The zoning administrator, after having a reasonable period of time to verify and review the information contained in the verified statement, shall establish a reasonable license fee. If the person claiming exemption refuses to pay this fee, he shall be referred to the city attorney who shall review the information contained in his verified statement by the zoning administrator. (11-8-2001, eff. 11-8-2001)

3-1-11: **MULTIPLE LICENSES:** Any person engaging in or carrying on two (2) or more businesses, as described in section 3-1-9 of this chapter, whether or not at the same location, shall procure a license for each business and shall pay the license fee fixed for each such business. The zoning administrator shall issue to such persons only one written license, which shall be a multiple license and which shall specify on its face which businesses are licensed thereby. (11-8-2001, eff. 11-8-2001)

3-1-12: **TRANSFER OF LICENSE NOT PERMITTED:** No business license shall be transferred. (11-8-2001, eff. 11-8-2001)

3-1-13: **REBATES OR REFUNDS:** Except as herein provided, no rebate or refund of any license fee or any part thereof shall be made by reason of the nonuse of the license or by reason of a change of location of business rendering the use of the license ineffective. However, the zoning administrator shall have the authority to refund a license fee or prorated portion thereof when the license fee was collected through an error. (11-8-2001, eff. 11-8-2001)

3-1-14: **CONTENTS OF LICENSE:** Each license issued hereunder shall state upon its face the following:

- A. The name of the licensee and any other name under which the business is to be conducted;
- B. A description of each business activity so licensed;
- C. The dates of issuance and expiration thereof;
- D. Such other information as the city council shall determine. (11-8-2001, eff. 11-8-2001)

3-1-15: **LICENSE PERIOD:** The license period for all licenses required hereunder shall be January 1 through December 31. All license fees required to be paid hereunder shall be due and payable by December 1 of each year for the following year, and a penalty fee of twenty five percent (25%) of the regular license fee shall be assessed and collected on every license procured after December 1 of each year, and an additional ten percent (10%) shall be added to the license fee on the first day of each month thereafter. (11-8-2001, eff. 11-8-2001)

3-1-16: DUTIES OF LICENSEE:

- A. General Standards Of Conduct: Every licensee under this title shall:
1. Permit all reasonable compliance evaluations of his business by the zoning administrator or his duly authorized representative;
 2. Ascertain and at all times comply with all laws and regulations applicable to the licensed business;
 3. Avoid all forbidden, improper or unnecessary practices or conditions which have a harmful effect upon the public health, morals or welfare;
 4. Refrain from operating any licensed business after expiration of the license or during a period when the license is revoked or suspended.
- B. Display Of License: Every licensee under this title shall:
1. Post and maintain the license upon the licensed premises in a place where it may be seen at all times;
 2. Carry the license on his person when he has no licensed business premises;
 3. Affix any license delivered for use in connection with a coin operated machine upon the outside of the machine or device so that it may be seen at all times;
 4. Not allow any license to remain posted, displayed or used after the period for which it was issued has expired, or when it has been suspended or revoked, or for any other reason has become ineffective;
 5. Not sell, loan, give or assign to any other person or allow any other person to use or display or to destroy, damage or remove, or have in his possession, any license which has been issued to the licensee.
- C. New Location Desired: Any licensee may change the location of the licensed business, provided he shall give written notice to the zoning administrator and receives permission from the city council. (11-8-2001, eff. 11-8-2001)

3-1-17: ENFORCEMENT:

- A. **Compliance Evaluations:** The zoning administrator or his authorized agent shall make all investigations reasonably necessary to the enforcement of this title. All persons authorized hereunder to inspect licensees and businesses shall have the authority to enter, with or without search warrant, and at all reasonable times, the following premises:
1. Those for which a license is required;
 2. Those for which a license was issued and which at the time of inspection are operating under such license.
- B. **Reporting Violations:** Persons inspecting licensees, their businesses or premises as herein authorized shall report all violations of this title or of other laws or ordinances to the zoning administrator and shall submit such other reports as the zoning administrator shall order.
- C. **Provisional Order:** When an inspector has reported the violation of this title, or of any law or ordinance, the zoning administrator shall issue to the affected person a provisional order to comply.
1. The provisional order and all other notices issued in compliance with this title shall be in writing, shall be personally served, and shall apprise the person affected of his specific violations. In the absence of the person affected, or his agent or employee, a copy of such notice shall be affixed to some structure on the premises. The deposit of the notice in the United States mail, addressed to the person affected and with postage prepaid, shall constitute personal service thereof;
 2. The provisional order shall require compliance within three (3) days of personal service on the affected person;
 3. Upon written application by the person affected before the expiration of the seven (7) day period for compliance, the city council shall order and conduct a hearing. Notice of such hearing shall be given to the affected person in the manner prescribed herein. The applicant may be represented by counsel at the hearing and may produce any evidence relevant to the question. Within three (3) days of the conclusion of the hearing, the zoning administrator shall make findings, enter a final order, and serve the final order on the affected person.

- D. **Authority Of Zoning Administrator:** Upon written application or on his own motion, the zoning administrator shall have the authority in a proper case to extend the time for compliance or grant a new hearing date or change, modify or rescind any recommendation or order. He shall also have the authority to suspend or revoke a license upon making and declaring either a provisional or final order in reference thereto.
- E. **Cessation Of Business:** Upon a final order revoking or suspending a license or determining that a license is necessary for an entity operating without a license, the entity shall immediately cease all business at all places where the entity is operating and found to be in violation. No refund of any portion of the license fee shall be made to the licensee if his license has been revoked or suspended.
- F. **Summary Action:** When the conduct of any licensee, agent or employee, or any unlicensed person conducting or operating a business, is so dangerous to the public health, safety or general welfare as to constitute a nuisance and thus give rise to an emergency or eminent hazard, the city council shall have authority summarily to order the cessation of business and the closing of premises, or to suspend or revoke the license unless waived in writing within five (5) days after the summary action of the city council. A special hearing with regard to such action shall be held by the city council. Notice of such hearing shall be given to the affected person in the manner prescribed herein. The findings and order of the city council following the hearing shall be final and conclusive and shall be personally served upon the appellant in the manner prescribed herein.
- G. **Right Of Appeal:** Any person aggrieved by the decision of the zoning administrator after hearing shall have the right to appeal to the city council by filing a written appeal with the zoning administrator within twenty (20) days following the effective date of the action or decision complained of. A time for hearing shall be fixed and not less than five (5) days' notice thereof shall be given to the appellant. Following the hearing, the city council shall make and enter findings of fact and an order, and its decision shall be final and conclusive and shall be served upon the appellant in the manner prescribed herein.
- H. **Judicial Appeal:** Any person aggrieved by an order of the city council after a hearing on summary action, or after a hearing on appeal from action of the zoning administrator, may pursue his remedy in a court of competent jurisdiction.

- I. **Liability Of Violator:** The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt to the city. The city attorney, at the direction of the city council, shall institute civil suit in the name of the city to recover any such unpaid fee. No civil judgment or any act by the city attorney or any other agent of the city shall be a bar to prevent a criminal prosecution for each and every violation of this title. In addition, the city attorney may pursue other remedies legally allowable for enforcement of this title. (11-8-2001, eff. 11-8-2001)

3-1-18: PENALTY: Unless otherwise provided, the violation of any provision of this title shall be a class B misdemeanor, and subject the violator to the penalty provisions as provided in section 1-4-1 of this code. Each day of a violation shall be considered a separate offense. (2006 Code)

