Fielding
Municipal Code

Adopted _____

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PREFACE

The Municipal Code of Fielding, Utah was published in house, and its most recent complete adoption was made by the Fielding Town Council in 2023. This Municipal Code shall be cited as the Fielding Municipal Code or "FMC" as an acronym.

The FMC is current as of _____.

This Municipal Code maintains a structure by subject matter using a decimal numbering system identifying the title, chapter, and section (for example: **1.01.010**).

- The first number in the sequence (**1**.01.010) designates the title level
- The second series of numbers (1.**01**.010) designates the chapter level
- The last series (1.01.**010**) designates the section level
- If a fourth series exists comprising letters or numbers beyond the section level, it designates a **subsection** level.

This complete set of numbers is designed to aid in searching the Municipal Code and to assist in subsequent codification as new ordinances are added to the Municipal Code.

To outline, give structure, and more granularly reference the legislation herein, the following list order (or pattern of ascending alphanumeric characters) is used: 1, a, (i), (1), (A). Drafting legislation with this list order better reconciles the content in local software and hard copies, with the content in this online code.

Vacant titles, chapters, or sections may be designed for future use and may be marked "RESERVED" to ease internal expansion.

The legislative history written as footnotes at the bottom of legislative text identifies specific legal sources. These sources contain documents which may or may not be linked.

The Municipal Code is supplemented from time- to -time with adoptions, amendments, repeals, corrections and reenactments made by the Fielding, Utah. The specific legal sources that comprise this Municipal Code have been adapted during the codification process from the original formatting of the official hard copy. In the event of discrepancies between the online Municipal Code and the official hard copy, the official hard copy governs. Municipal Code Online, Inc., provides a searchable database of the Municipal Code for easy reference and convenience.

TITLE 1: ADMINISTRATION

Chapter 1: General Provisions

Section:

1-1-1: Title
1-1-2: Acceptance
1-1-3: Amendments
1-1-4: Alterations

1-1-1: Title

Upon the adoption by the town council, this code is hereby declared to be and shall hereafter constitute the official town code of Fielding Town. This code of ordinances shall be known and cited as the FIELDING MUNICIPAL CODE ("FMC") and is hereby published by authority of the town council and shall be supplemented to incorporate the most recent legislation of the town as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause relating thereto, as well as to the section itself, when reference is made to this code by title in any legal documents.

1-1-2: Acceptance

This code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the town of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title.

1-1-3: Amendments

All amendments made to this code shall be by ordinance. Any ordinance amending the town code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the town code.

1-1-4: Alterations

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the town council. The town recorder shall see that the replacement pages are properly inserted in the official copies maintained in the office of the town recorder. Any person having custody of a copy of the town code shall

make every effort to maintain said code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the town recorder. Said code books, while in actual possession of officials and other interested persons, shall be and remain the property of the town and shall be returned to the office of the town recorder when directed so to do by order of the town council.

Chapter 2: Saving Clause

Section:

1-2-1: Repeal of General Ordinances
1-2-2: Public Ways and Public Utility Ordinances
1-2-3: Court Proceedings
1-2-4: Severability Clause

1-2-1: Repeal of General Ordinances

(A) *Repealer; Exceptions:* All general ordinances of the town passed prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; and all special ordinances.

(B) *Effect Of Repealing Ordinances:* The repeal of the ordinances provided in subsection (A) of this section shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

1-2-2: Public Ways and Public Utility Ordinances

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as the town code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

1-2-3: Court Proceedings

(A) *Prior Acts:* No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any

penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

(B) *Scope of Section:* This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

(C) *Actions Now Pending:* Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the adoption of this code.

1-2-4: Severability Clause

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The town council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

Chapter 3: Definitions

Section:

1-3-1: Construction of Words
1-3-2: General Definitions
1-3-3: Catchlines
1-3-4: Culpable Mental States

1-3-1: Construction of Words

(A) *Liberal Construction:* All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the mayor and town council may be fully carried out.

(B) *Interpretation:* In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Where any provision of a code imposes greater restrictions upon the subject matter than the general provision imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(C) *Additional Interpretations:*

(1) *Computation of Time:* Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time but the day on which such proceeding is to be held shall be counted.

(2) *Delegation of Authority:* Whenever a provision appears requiring the head of a department or some other town officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

(3) *Gender:* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(4) *Joint Authority:* All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(5) *May/Shall:* The word "may" is permissive; the word "shall" is mandatory.

(6) *Nontechnical and Technical Words:* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(7) *Number:* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

(8) *Officers Generally:* Whenever any officer is referred to by title, such as "recorder", "treasurer", etc., such reference shall be construed as if followed by the words "of the town of Fielding".

(9) *Tense:* Words used in the past or present tense include the future as well as the past and present.

1-3-2: General Definitions

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

(A) AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

(B) CODE: The town code of Fielding, Utah.

(C) COUNTY: Box Elder County, state of Utah.

(D) FEE: A sum of money charged by the town for the carrying on of a business, profession or occupation or other activity subject to town regulation, authorization or limitation.

(E) GOVERNING BODY: The town council of Fielding, Utah.

(F) HIGHWAY, ROAD: Includes public bridges, and may be equivalent to the words "county way", "county road", "common road" and "state road."

(G) INTENTIONALLY or WITH INTENT: Refers to the mental state defined in Utah Code Ann. § 76-2-103(1).

(H) KNOWINGLY or WITH KNOWELDGE: Refers to the mental state defined in Utah Code Ann. § 76-2-103(2).

(I) LICENSE: The permission granted for the carrying on of a business, profession or occupation.

(J) LOCATION: Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of the town.

(K) NEGLIGENTLY: Refers to the mental state defined in Utah Code Ann. § 76-2-103(4).

(L) NUISANCE: Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the town, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.

(M) OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

(N) OFFENSE: Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

(O) OPERATOR: The person who is in charge of any operation, business or profession.

(P) OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

(Q) PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

(R) PERSONAL PROPERTY: Includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

(S) PROPERTY: Includes both real and personal property.

(T) REASONABLE TIME: In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

(U) RECKLESSLY: Refers to the mental state defined in Utah Code Ann. § 76-2-103(3).

(V) RETAILER: Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

(W) RIGHT OF WAY: The privilege of the immediate use of the roadway or other property.

(X) STATE: The state of Utah.

(Y) STREET: Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

(Z) TENANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

(AA) TIME, HOW COMPUTED: The time within which an act is to be done as provided in any ordinance or in any resolution or order of the town, when expressed in days, shall be determined by excluding the first day and including the last day, except if the last day be a Sunday or a legal holiday, then the last day shall be the day next following such Sunday or legal holiday which is not a Sunday or legal holiday. When time is expressed in hours, Sunday and all legal holidays shall be excluded.

(BB) TOWN: Fielding, Utah.

(CC) TOWN COUNCIL: The town council of Fielding, Utah.

(DD) WEEK: Any seven (7) day period.

(EE) WHOLESALER: The terms "wholesaler" and "wholesale dealer" as used in this code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

(FF) WRITTEN, IN WRITING: May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper

handwriting of such person, or in case such person is unable to write, by such person's proper mark.

1-3-3: Catchlines

The catchlines of the several sections of the town code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

1-3-4: Culpable Mental States

(A) Every violation of this code not involving strict liability shall require a culpable mental state, and when the definition of the offense does not specify a culpable mental state and the offense does not involve strict liability, intent, knowledge, or recklessness shall suffice to establish criminal responsibility.

(1) If acting with criminal negligence is sufficient to establish the culpable mental state for an element of an offense, that element is also established if a person acts intentionally, knowingly, or recklessly.

(2) If acting recklessly is sufficient to establish the culpable mental state for an element of an offense, that element is also established if a person acts intentionally or knowingly.

(3) If acting knowingly is sufficient to establish the culpable mental state for an element of an offense, that element is also established if a person acts intentionally.

(B) An offense shall involve strict liability if the statute defining the offense clearly indicates a the town council's purpose to impose criminal responsibility for commission of the conduct prohibited by the ordinance without requiring proof of any culpable mental state.

Chapter 4: General Penalty

Section:

1-4-1: Sentencing
1-4-2: Offenses Designated; Classified

1-4-1: Sentencing

(A) *Penalty For Violation Of Code:* In accordance with Utah Code Ann. § 10-3-703, the following penalties apply to violations of this code:

(1) *Criminal:* The town council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

(2) *Civil:*

(a) Except as provided in subsection (A)(2)(b) of this section, the town council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301.

(b) A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

(B) *Term Of Imprisonment For Misdemeanors:* A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

(1) In the case of a class B misdemeanor, for a term not exceeding six (6) months;

(2) In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

(C) Infractions:

(1) A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.

(2) Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

(D) *Fines Of Persons:* A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

(1) Class B Misdemeanor: One thousand dollars ($1,000.00) when the conviction is of a class B misdemeanor conviction; and

(2) Class C Misdemeanor; Infraction: Seven hundred fifty dollars ($750.00) when the conviction is of a class C misdemeanor conviction or infraction conviction.

(E) *Fines Of Corporations:* The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the town, or for an offense defined outside of this code over which this town has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

(1) Class B Misdemeanor: Five thousand dollars ($5,000.00) when the conviction is for a class B misdemeanor conviction; and

(2) Class C Misdemeanor; Infraction: One thousand dollars ($1,000.00) when the conviction is for a class C misdemeanor conviction or for an infraction conviction.

1-4-2: Offenses Designated; Classified

(A) *Sentencing In Accordance With Chapter:*

(1) A person adjudged guilty of an offense under this code or the ordinances of this town shall be sentenced in accordance with the provisions of this chapter.

(2) Ordinances enacted after the effective date hereof which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

(B) *Designation of Offenses:* Offenses are designated as misdemeanors or infractions.

(C) *Misdemeanors Classified*[1]*:*

(1) Misdemeanors are classified into two (2) categories:

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[1] Utah Cod Ann. § 76-3-104

(i) Class B misdemeanors;

(ii) Class C misdemeanors.

(2) An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or any ordinance of this town when no other specification as to punishment or category is made, is a class B misdemeanor.

(D) *Infractions:*

(1) Infractions are not classified.

(2) Any offense which is made an infraction in this code or other ordinances of this town, or which is expressly designated an infraction and any offense designated by this code or other ordinances of this town which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

(E) *Continuing Violation:* In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

Chapter 5: Records Access and Management

Section:

1-9-1: Records Access and Management Act Adoption

1-9-1: Records Access and Management Act Adoption

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah Government Records Access and Management Act, Utah Code Annotated section 63G-2-101 et seq., as amended, are hereby adopted by the town. Any and all violations thereof shall be considered violations of this chapter and each such violation shall subject the violator thereof to penalty provisions under this chapter if proceeded hereunder.

TITLE 2: BOARDS, COMMISSIONS, AND COMMITTEES [RESERVED]

Chapter 1: [RESERVED]

Section:

2-1-1: [RESERVED]

TITLE 3: BUSINESS AND LICENSE REGULATION

Chapter 1: Residential Solicitation

Section:

3-1-1: Purpose
3-1-2: No Other Town License or Approval Required
3-1-3: Definitions
3-1-4: Exemptions
3-1-5: Solicitation Prohibited
3-1-6: Registration of Solicitors
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3-1-16: Deceptive Soliciting Practices Prohibited
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3-1-18: Duties of Solicitors
3-1-19: Time of Day Restrictions
3-1-20: Buyer's Right to Cancel
3-1-21: Penalties

3-1-1: Purpose

(A) Residents of the Town of Fielding have an inalienable interest in their personal safety, wellbeing, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The Town of Fielding has a substantial interest in protecting the wellbeing, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The Town of Fielding also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity while also considering the effect of the regulations in this chapter on the rights of those who are regulated. The purpose of this chapter is to promote the Town of Fielding's interests in:

(1) Respecting citizens' decisions regarding privacy in their residences;

(2) Protecting persons from criminal conduct;

(3) Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and

(4) Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.

3-1-2: No Other Town License or Approval Required

(A) Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from Fielding Town to engage in door-to-door solicitation.

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

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

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

3-1-3: Definitions

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

(A) ADVOCATING: Speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

(B) APPEALS OFFICER: The town council or designee of Fielding Town responsible for receiving the information from the town and appellant regarding the denial or suspension of a certificate and issuing a decision as required by this chapter.

(C) APPELLANT: The person or entity appealing the denial or suspension of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

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

(E) APPLICATION FORM: A standardized form provided by Fielding Town to an applicant to be completed and submitted as part of registration.

(F) BCI: An original or copy, dated no older than one hundred eighty (180) days prior to the date of the application, of either: a) a Utah department of public safety bureau of criminal identification verified criminal history report personal to the applicant; or b) verification by the Utah department of public safety bureau of criminal identification that no criminal history rising to the level of a disqualifying status exists for the applicant.

(G) BUSINESS: A commercial enterprise licensed by Fielding Town as a person or entity under this title, having a fixed or temporary physical location within the town.

(H) CERTIFICATE: A temporary, annual, or renewal certificate permitting door-to-door solicitation in the town applied for or issued pursuant to the terms of this chapter.

(I) CHARITABLE ACTIVITIES: Advocating by persons or entities that either are, or support, a charitable organization.

(J) CHARITABLE ORGANIZATION: Includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

(1) That is tax exempt under applicable provisions of the internal revenue code of 1986, as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purpose and is:

(a) A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(b) For the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(c) Established for any charitable purpose.

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

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

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

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

(N) DISQUALIFYING STATUS: Anything specifically defined in this chapter as requiring the denial or suspension of a certificate, and any of the following:

(1) The applicant or registered solicitor has been criminally convicted of, or has charges currently pending against, the applicant or registered solicitor for:

(a) felony homicide;

(b) physically abusing, sexually abusing, or exploiting a minor;

(c) the sale or distribution of controlled substances; or

(d) sexual assault of any kind;

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

(3) The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years;

(4) The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:

(a) moral turpitude; or

(b) violent or aggravated conduct involving persons or property;

(5) A final civil judgment has been entered against the applicant or registered solicitor within the last five (5) years indicating that:

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

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

(7) The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or

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

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

(P) ENTITY: Includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

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

(R) FINAL CIVIL JUDGMENT: A civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

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

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

(1) The means of payment or consideration used for the purchase;

(2) The time of delivery of the goods or services; or

(3) The previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

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

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

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

(X) REGISTERED SOLICITOR: Any person who has been issued a current certificate by Fielding Town.

(Y) REGISTRATION: The process used by the town licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.

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

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

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

(1) Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

(2) Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

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

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

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

(EE) SOLICITING, SOLICIT, or SOLICITATION: Any of the following activities:

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

(2) Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

(3) Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;

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

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

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

(FF) SOLICITOR(S): A person(s) engaged in door-to-door solicitation.

(GG) SUBMITTED IN WRITING: The information for an appeal of a denial or suspension of a certificate, submitted in any type of written statement to Fielding Town offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

(HH) SUBSTANTIATED REPORT: An oral, written, or electronic report:

(1) That is submitted to and documented by Fielding Town;

(2) By any of the following:

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

(b) Town law enforcement or licensing officer; or

(c) Any other regularly established law enforcement agency at any level of government; and

(3) That provides any of the following information regarding a registered solicitor:

(a) Documented verification of a previously undisclosed disqualifying status of a registered solicitor;

(b) Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;

(c) Documented, eyewitness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this chapter; or

(d) Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the town.

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

3-1-4: Exemptions

(A) The following are exempt from registration under this chapter:

(1) Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;

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

(3) Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;

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

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

(B) Persons exempt from registration are not exempt from the duties and prohibitions outlined in sections 3-1-17, 3-1-18 and 3-1-19 of this chapter while advocating or soliciting.

3-1-5: Solicitation Prohibited

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

3-1-6: Registration of Solicitors

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

3-1-7: Application Form

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

(A) *Review of Written Disclosures:* An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.

(B) *Contact Information:* The following contact information should be included on the application form:

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

(2) Applicant's telephone number, home address and mailing address, if different;

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

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

(C) *Proof Of Identity:* An in person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant and which, upon verification of identity, shall be returned to the applicant:

(1) A valid driver's license issued by any state;

(2) A valid passport issued by the United States;

(3) A valid identification card issued by any state; or

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

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

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

(F) *Marketing Information:* The applicant shall provide information about:

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

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

(G) *BCI Background Check:* The applicant shall provide:

(1) An original or a copy of a BCI background check; and

(2) A signed copy of a waiver whereby applicant agrees to allow Fielding Town to obtain a name/date of birth BCI background check on applicant for purposes of enforcement of this chapter.

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

(1) The applicant or registered solicitor has been criminally convicted of, or has charges currently pending against, the applicant or registered solicitor for:

(a) felony homicide;

(b) physically abusing, sexually abusing, or exploiting a minor;

(c) the sale or distribution of controlled substances; or

(d) sexual assault of any kind;

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

(3) The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five (5) years;

(4) The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of:

(a) moral turpitude; or

(b) violent or aggravated conduct involving persons or property;

(5) A final civil judgment has been entered against the applicant or registered solicitor within the last five (5) years indicating that:

(a) the applicant or registered solicitor had either engaged in fraud, or intentional misrepresentation; or

(b) a debt of the applicant or registered solicitor was nondischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19);

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

(7) The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or

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

(I) *Fee:* The applicant shall pay such fees as determined applicable by Fielding Town, which shall not exceed the reasonable cost of processing the application and issuing the certificate and/or identification badge.

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

3-1-8: Written Disclosures

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

(A) The applicant's submission of the application authorizes Fielding Town to verify information submitted with the completed application including:

(1) The applicant's address;

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

(3) The validity of the applicant's proof of identity;

(B) Fielding Town may consult any publicly available sources for information on the applicant, including, but not limited to, databases for any outstanding warrants, protective orders, or civil judgments;

(C) Establishing proof of identity is required before registration is allowed;

(D) Identification of the fee amount that must be submitted by applicant with a completed application;

(E) The applicant must submit a BCI background check with a completed application;

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

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

(H) The criteria for disqualifying status, denial, or suspension of a certificate under the provisions of this chapter;

(I) That a request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

3-1-9: Beginning Registration

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

3-1-10: Issuance of Certificates

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

(A) *Temporary Certificate:*

(1) A temporary certificate shall issue allowing the applicant to immediately begin door to door solicitation upon the following conditions:

(a) Applicant's submission of a completed application;

(b) Applicant's submission of the required fee;

(c) Applicant establishes proof of identity;

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

(e) The BCI does not affirmatively show a disqualifying status; and

(f) The applicant has not previously been denied a certificate by Fielding Town, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.

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

(B) *Annual Certificate:* Within twenty five (25) calendar days of the issuance of a temporary certificate Fielding Town shall:

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

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

(a) Will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or

(b) Will not be issued an annual certificate for reasons cited in section 3-1-14 of this chapter.

(C) *Renewal Certificate:* An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at twelve o'clock (12:00) midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in section 3-1-14 of this chapter, or a disqualifying status is present.

3-1-11: Form of Certificate

(A) *Certificate Form:* Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant which shall:

(1) List the name of the registered solicitor and the responsible person or entity, if any;

(2) The date on which the certificate expires;

(3) Be dated and signed by the license officer; and

(4) Be carried by the registered solicitor at all times while soliciting in Fielding Town.

3-1-12: Maintenance of Registry

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

3-1-13: Nontransferability of Certificates

(A) Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any.

(B) The certificate shall be nontransferable.

(C) A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different goods or services or the responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer.

(1) A new certificate based on the amended information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed.

3-1-14: Denial, Suspension, or Revocation of a Certificate of Registration

(A) *Denial of Temporary Certificate:* Upon review, the licensing officer shall refuse to issue a temporary certificate to an applicant for any of the following reasons:

(1) The application form is not complete;

(2) The applicant fails to:

(a) establish proof of identity;

(b) provide a BCI; or

(c) pay the fees;

(3) The completed application or BCI indicates that the applicant has a disqualifying status; or

(4) The applicant has previously been denied a certificate by Fielding Town, or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.

(B) *Denial of Annual Certificate:* Upon review, the licensing officer shall refuse to issue an annual certificate to an applicant for any of the following reasons:

(1) The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect;

(2) Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

(3) Failure to complete payment of the fees;

(4) Since the submission of the application, Fielding Town has received a substantiated report regarding the past or present conduct of the applicant;

(5) Since the submission of the application, Fielding Town or another governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

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

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

(b) that a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19).

(C) *Denial of Annual Certificate Renewal:* Upon review, the licensing officer shall refuse to issue an annual certificate renewal to an applicant for any of the following reasons:

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

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

(3) Failure to complete payment of the fees;

(4) Since the submission of the application or granting of a certificate, Fielding Town has received a substantiated report regarding the past or present conduct of the solicitor;

(5) Corinne town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

(6) Since the submission of the application, a final civil judgment has been entered against the applicant indicating that: 1) the applicant had either engaged in fraud, or intentional misrepresentation, or 2) that a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC section 523(a)(2), (a)(4), (a)(6), or (a)(19).

(D) *Suspension or Revocation:* Fielding Town shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

(1) Failure to appeal the suspension or revocation of a certificate automatically results in its revocation.

(E) *Notice of Denial or Suspension:* Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, Fielding Town shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application.

(1) The notice shall specify the grounds for the denial or suspension, the documentation or information the town relied on to make the decision, the availability of the documentation for review by applicant upon one business day's notice to Fielding Town, and the date upon which the denial or suspension of the certificate shall take effect.

(2) The notice shall state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial or suspension to appeal the same.

(3) The denial or suspension of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances outlined in section 3-1-3(HH)(3)(d), in which case, the suspension is effective immediately.

(4) The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law.

3-1-15: Appeal Procedures and Requirements

(A) An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the town council or its designee, pursuant to the following procedures and requirements:

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

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

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

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

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

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

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

(5) After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with Fielding Town.

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

(B) Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who:

(1) Documents the relationship with the applicant or responsible person or entity; or

(2) Is licensed or authorized by the state of Utah to do so, and makes the assertion of an agency relationship.

3-1-16: Deceptive Soliciting Practices

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

(B) A solicitor shall immediately disclose or provide an information flyer to the consumer during face-to-face solicitation:

(1) the name of the solicitor;

(2) the name and address of the entity with whom the solicitor is associated; and

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

(C) No solicitor shall use a fictitious name, an alias, or any name other than their true and correct name.

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

3-1-17: "No Solicitation" Notice

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

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

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

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

3-1-18: Duties of Solicitors

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

(1) If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property.

(2) Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

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

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

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

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

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

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

3-1-19: Time of Day Restrictions

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

3-1-20: Buyer's Right to Cancel

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

3-1-21: Penalties

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

Chapter 2: General License Provisions

Section:

3-2-1: Definitions
3-2-2: License Assessor and Collector
3-2-3: Application for License
3-2-4: License Fees
3-2-5: Payment Dates
3-2-6: Certificate of License
3-2-7: Transfer of License Prohibited
3-2-8: Branch Establishments
3-2-9: Joint Business Licenses
3-2-10: Exception for Delivery of Goods
3-2-11: Exemptions to License
3-2-12: Revocation or Denial of License
3-2-13: Business License Required; Penalty

3-2-1: Definitions

As used in this chapter:

(A) BUSINESS: Includes all activities engaged in within the town 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.

(B) EACH SEPARATE PLACE OF BUSINESS: Each separate establishment or place of operation, whether or not operating under the same name, within the town, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the town.

(C) EMPLOYEE: The operator or manager of a place of business and any persons employed in the operation of said place of business in any capacity and also any salesperson, agent or independent contractor engaged in the operation of the place of business in any capacity.

(D) ENGAGING IN BUSINESS: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to their employer under any contract of personal employment.

(E) PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within the town from which business activity is conducted or transacted.

(F) WHOLESALE: A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

(G) WHOLESALER: A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

3-2-2: License Assessor and Collector

The town recorder is designated and appointed as ex officio assessor of license fees for the town. Upon receipt of any application for a license, the town recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. They shall enforce all provisions of this title, and shall cause to be filed complaints against all persons violating any of the provisions of this title.

3-2-3: Application for License

(A) *Contents:* All applications for license shall include:

(1) The name of the person desiring a license.

(2) The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.

(3) The class of license desired, if such licenses are divided into classes.

(4) The place where such business, calling, trade or profession is to be carried on, giving the street number if the business, calling, trade or profession is to be carried on in any building or enclosure having such number.

(5) The period of time for which such license is desired to be issued.

(B) *Coin Operated Machine or Device:* In the event that the license application relates to a coin operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

3-2-4: License Fees

(A) *Imposed:* There is hereby imposed and levied a business license fee as established by resolution of the town council.

(B) *Interstate Commerce:* None of the license fees provided for by this section shall be applied as to occasion an undue burden on interstate commerce.

(1) In any case, where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, they may apply to the license assessor and collector for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce.

(a) Such application may be made before, at or within six (6) months after payment of the prescribed license fee.

(b) The applicant shall, by affidavit and supporting testimony, show their method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.

(c) The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which they shall determine whether the fee fixed by this section is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the town council a license fee for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the town council is satisfied that such license fee is the amount that the applicant should pay, it shall fix the license fee in such amount.

(d) If the regular license fee has already been paid, the town council shall order a refund of the amount over and above the fee fixed by the town council.

(e) In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or 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.

3-2-5: Payment Dates

All license fees shall be due and payable as follows, except as may be otherwise provided:

(A) *Payable:* Annual fees shall be payable before each calendar year, in advance. The annual license shall date from January 1 of each year and shall expire on December 31 of each year.

(B) *Due:* Annual fees shall be due on January 1 of each calendar year and shall become delinquent if not paid by February 1 of each year.

(C) *Penalty for Late Payment:* If any license fee is not paid within thirty (30) days of the due date, a penalty of fifty percent (50%) of the amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid.

3-2-6: Certificate of License

(A) *Contents:* All certificates of license shall be signed by the town recorder, and shall contain the following information:

(1) *Name:* The name of the person to whom such certificate has been issued.

(2) *Type:* The type of license and the class of such license, if licenses are divided into classes.

(3) *Term:* The term of the license with the commencing date and the date of its expiration.

(4) *Location:* The place where such business, calling, trade or profession is to be conducted.

(B) *Display:*

(1) *Required:* Every certificate of license issued under this chapter 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.

(a) When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business.

(b) If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on their person, ready to be shown upon request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license was granted.

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

3-2-7: Transfer of License Prohibited

No license granted or issued under any ordinance of the town shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named, unless by permission of the town council.

3-2-8: Branch Establishments

A separate license must be obtained for each separate place of business in the town and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this chapter shall not be deemed to be separate places of business or branch establishments.

3-2-9: Joint Business Licenses

(A) Whenever any person is engaged in two (2) or more businesses at the same location within the town, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses.

(B) The license fee to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location.

(C) The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement.

(D) Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license fee for such business.

3-2-10: Exception for Delivery of Goods

(A) *Exceptions:* No license shall be required for operation of any vehicle or equipment in the town when:

(1) Such vehicle is merely passing through the town.

(2) Such vehicle is used exclusively in intercity or interstate commerce.

(B) *Delivery of Property:* No license shall be required by this chapter of any person whose only business activity in the town is the mere delivery in the town of property sold by them at a regular place of business maintained by them outside the town where:

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

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

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

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

(C) *Certification of Section:* The town recorder shall, at the request of any person, certify a copy of this section to any municipality or county of the state to which a copy has not previously been certified.

3-2-11: Exemptions to License

(A) *Exempt Businesses:* No license fee shall be imposed under section 3-2-4 of this chapter on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt in such activities under the laws of the United States and the state, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state; nor shall any license fee be imposed upon any person not maintaining a place of business within the town who has paid a like or similar license tax or fee to some other taxing unit within the state and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the town and doing business in such taxing unit.

(B) *Reciprocal Agreements With Other Agencies:* The license assessor and collector may, with approval of the town council, enter into reciprocal agreements with the

proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection A of this section.

3-2-12: Revocation or Denial of License

(A) *Failure To Comply; Unlawful Activities:* Any license issued pursuant to the provisions of this code or of any ordinance of the town may be revoked and any application denied by the town council because of:

(1) The failure of the licensee or applicant to comply with the conditions and requirements of this code or any ordinance of the town; or

(2) Unlawful activities conducted or permitted on the premises where the business is conducted.

(B) *Notice To Licensee:* Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the town council intends to revoke the business license or deny the application to renew, together with the reason or reasons therefor, at a regular or special meeting of the town council (which shall be at least 10 days and not more than 30 days from the date notice is sent), and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against him, to cross examine witnesses and to present evidence as to why the license should not be revoked or the application denied.

3-2-13: Penalty

It shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball, or coin operated machine without first receiving the class or type of license required by the town.

TITLE 4: HEALTH AND SANITATION

Chapter 1: Nuisances

Section:

4-1-1: Nuisances Defined and Declared

4-1-1: Nuisances Defined and Declared

(A) *Nuisances Defined:* Whatever is dangerous to human life or health and whatever renders soil, air, water or food impure or unwholesome. Utah Code Ann. § 78B-6-1101 is also adopted by reference to define a nuisance.

(B) *Nuisances Declared Unlawful:* It shall be unlawful for any person, as an owner, agent, or occupant to create, aid in creating, contribute or maintain a nuisance.

(C) *Responsible Party Defined:*

(1) The party or parties responsible for a nuisance shall be deemed to be the owner of record, any tenant occupying the property, the agent of either of these, and all other persons having control of the property upon which a nuisance exists that is an outgrowth of the usual, natural, or necessary use of the property or of the business or activities conducted thereon.

(2) The party or parties responsible for a nuisance that is not an outgrowth of the usual, natural, or necessary use of the property upon which it exists, where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business or activities conducted thereon, shall be deemed to be the property's occupants and all other persons contributing to the continuance of such nuisance.

(D) *Declaration Of Nuisance:*

(1) Every act performed or undertaken and every condition caused, permitted, allowed, or continued in violation of this section is hereby declared to be a nuisance and may be abated and punished as provided in Chapter 4 of this Title.

(2) The following, without limitation, are hereby declared to be nuisances:

(a) Causing or permitting conditions that befoul the water of any spring, stream, well, or water source supplying culinary water;

(b) Allowing any privy vault, cesspool, or other individual wastewater disposal system to become either a menace to health or a source of odors;

(c) Permitting a garbage container to become unclean and offensive;

(d) Permitting a carcass or carcasses; decaying flesh, fish, fowl, vegetables; other unwholesome substances; or filthy or offensive water to accumulate or remain upon any private yard or premises, or to be thrown or conducted onto any street, alley, public ground, or enclosure so as to be or to be liable to, become hazardous or offensive;

(e) Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed, or sold to become or to remain unclean, malodorous, noisome, or verminous, or in any other condition detrimental to public health and safety;

(f) Discharging, releasing, spilling, or pouring out any liquid waste, offensive effluent, filthy water, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or vacant lot, which will, or, as a result of continued discharge, would render the place of discharge offensive, noisome, malodorous, noxious, contaminated, or otherwise dangerous or detrimental to public health and safety;

(g) Keeping, collecting, or permitting the accumulation of stale or putrid grease, rotting foodstuffs, sour milk or other dangerous or offensive matter;

(h) Keeping or offering drinking vessels for public use without providing for decontamination between uses;

(i) Failing to furnish any dwelling house, boarding house, factory, or other place of employment with such privy vaults, water closets, sinks, or other facilities as necessary to maintain the same in sanitary condition;

(j) Failing, within twenty (20) days after issuance of relevant notice, either (i) to repair, clean out, or disinfect, or (ii) to discontinue the use of, and fill up a privy vault, cesspool, or other individual wastewater disposal system;

(k) Creating or permitting conditions that obstruct, interfere with, or render dangerous to passage any street, sidewalk, lake, stream, drainage, canal, basin, or public park without written permission from the town council;

(l) Making, or permitting the making of unnecessary and or extreme noise, or vibration, or carrying on any activity, business, or amusement in such a way as to annoy or to disturb the peace and quiet of other persons;

(m) Storing or accumulating, or permitting the storage or accumulation of any of the following where not permitted by the applicable zoning: (i) uncontained garbage, refuse, litter, or other solid waste; (ii) auto parts, tires, scrap metal, machinery, or machinery parts; or (iii) junk, abandoned items, construction supplies, or household goods;

(n) Except where permitted by applicable zoning regulations, the parking or storage of inoperative, unregistered, abandoned, wrecked, or partially dismantled vehicles, including cars, boats, trailers, or trailer parts, including recreational vehicles of any kind;

(o) Parking or storing inoperable construction equipment of any sort when it is readily visible from a public street, alley, or adjoining property, unless (i) excavation, construction, or demolition, covered by an active building permit, are in progress on the subject property or an adjoining property, or (ii) the property is zoned for the parking or storage of construction equipment;

(p) Permitting or creating any attractive nuisance dangerous to children or other persons, including, but not limited to, any of the following:

(i) Abandoned, broken, or neglected household appliances, equipment, and machinery;

(ii) Abandoned foundations or excavations;

(iii) Abandoned, unmaintained, or unsecured outhouses or privies;

(iv) Improperly maintained or secured pools; or

(v) Abandoned, discarded, or unattended chests, boxes, refrigerators, freezers, or other such containers having a door or lock which cannot be opened or released from the inside,

unless such door or lock has been removed so that no person may become trapped thereby;

(q) Erecting any privy, toilet, or outhouse for depositing or collecting human excreta;

(r) Stacking or permitting the accumulation of wood scraps, shavings, straw, chaff, hay, grain, forage, and the like within fifty (50) feet of any dwelling or in any place where it might reasonably pose a fire hazard;

(s) Permitting the growth of weeds, grass, or plant life until it becomes dangerous, unsightly, or violative of section 4-3-2 of this title;

(t) Building or allowing to be built any structure contrary to applicable zoning regulations, or putting any building to a use not permitted in the zone in which such building lies; or

(u) Undertaking, permitting, or allowing any action analogous to the above-listed nuisances in such a way as to create conditions which are:

(i) noisome, noxious, or malodorous;

(ii) dangerous to public health and safety; or

(iii) offensive to public morals;

(v) Abandoned buildings, structures, rubbish, or other habitat for rats, mice, raccoons, or other vermin.

(E) *Abatement of Nuisances:* Fielding Town may abate nuisances pursuant to the provisions of Chapter 4 of this Title, "Abatement of Violations."

(F) *Civil and Criminal Penalties:* In addition to any other penalty provided by law and except as provided in subsection 4-1-1(F)(1) of this chapter, any violation of or failure to comply with the provisions of this chapter shall constitute an infraction, subject to the civil and criminal penalties set forth in section 1-4-1 hereof, regardless of whether or not the Town pursues abatement under subsection 4-4-4(A).

(1) A violation of or failure to comply with the provisions of this Chapter shall constitute a class B misdemeanor if:

(a) the nuisance threatens the health, safety, or welfare of the individual or an identifiable third party; or

(b) the town has imposed a fine on the individual for a violation that involves the same residence on three previous occasions within the past 12 months.

Chapter 2: Garbage and Refuse

Section:

4-2-1: Definitions
4-2-2: Regulations and Requirements
4-2-3: Penalty

4-2-1: Definitions

Whenever the following words or terms are used in this chapter, they shall have such meanings herein ascribed to them:

COMMERCIAL GARBAGE: Garbage produced in commercial establishments, public or quasi-public institutions or establishments, including restaurants, hotels, motels and similar establishments.

COMMUNITY WASTE: Lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree branches.

CONTAINER OR REGULATIONS CONTAINER: A type of garbage or trash container of galvanized metal or other approved material and having a tightfitting lid or properly and sufficiently treated weather resistant bag manufactured specifically for use in garbage and refuse collection.

GARBAGE: Waste from the preparation, handling, storing, cooking or consumption of food and food products.

REFUSE: All waste matter, except garbage, attending or resulting from the occupancy of residences, apartments, hotels, or other places of dwelling and from the operation of a business. Refuse shall not be deemed to include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure.

RESIDENTIAL GARBAGE: Garbage produced in places of private residence and dining halls not open to the public.

4-2-2: Regulations and Requirements

(A) All garbage and refuse shall be collected, removed and disposed of with such frequency and in such manner as the town council may from time to time establish by regulation.

(B) Commercial establishments, public or quasi-public institutions and establishments creating commercial garbage, may remove commercial garbage

themselves or may employ the services of authorized contractors to remove commercial garbage. Haulage of refuse must be done in the manner, at such times and in such vehicles as may be approved for such purposes as the town council may from time to time by regulation provide.

(C) It shall be unlawful for any person to accumulate garbage or refuse or cause garbage or refuse to be deposited upon any street or alley or upon any premises in the town without express permission from the town council. The town council may permit the feeding or processing of garbage or refuse upon premises properly equipped and maintained so as to prevent the creation of a nuisance or a hazard to health, or permit the depositing of ashes and other dry material for filling purposes at such places as the commission may designate and under such restrictions as the town council may by regulation impose. Additionally, the town council may grant to any person permission for sorting, bailing and marketing trade waste upon premises properly equipped and maintained.

(D) Nothing contained in this section shall preclude persons from hauling their own garbage, trash or community waste over the streets and alleys of the town as the town council may authorize.

(E) All garbage that originates from within the town limits must be covered while being transported.

(F) Nothing in this section shall be construed as eliminating the charge made for garbage service.

(G) It shall be unlawful for any person(s) to burn garbage, market waste, or other refuse in the open air or in any furnace or stove within the town.

(H) It shall be unlawful for any person(s) to place, deposit or dump garbage, market waste, paper boxes, cartons, trade waste, or night soil, or any other refuse upon any lot within the town whether such lot is occupied or vacant and whether such person so placing, depositing, or dumping such refuse is the owner, tenant, occupant or lessee thereof, or has the same under their jurisdiction and control.

(I) The town council may adopt such regulations as in its opinion are necessary to implement this part of its objectives.

(J) It is unlawful for any person(s) to litter in public places. No person(s) shall throw or deposit litter in or on any street, sidewalk, alleyway, irrigation delivery ditch, or other public place.

(K) Roll-off containers used for town cleanup may only be used for residential community waste, residential refuse and residential garbage. No appliances, tires,

batteries, liquids or hazardous waste will be allowed in the roll-offs. The roll-offs cannot be used after refuse reaches the marked indicator on the outside.

4-2-3: Penalty

(A) In addition to any other penalty provided by law and except as provided in subsection 4-2-4(A)(1), any violation of or failure to comply with the provisions of this chapter shall constitute an infraction, subject to the civil and criminal penalties set forth in section 1-4-1 hereof, regardless of whether or not the Town pursues abatement under ubsection 4-4-4(A).

(1) A violation of or failure to comply with the provisions of this Chapter shall constitute a class B misdemeanor if:

(a) the nuisance threatens the health, safety, or welfare of the individual or an identifiable third party; or

(b) the town has imposed a fine on the individual for a violation that involves the same residence on three previous occasions within the past 12 months.

Chapter 3: Weeds

Section:

4-3-1: Definition
4-3-2: Standard of Weed Control
4-3-3: Penalty

4-3-1: Definition

"Weeds" shall include any vegetation commonly referred to as a weed or which shall have been designated a noxious weed by the Utah commission of agriculture.

4-3-2: Standard of Weed Control

(A) *Conditions Constituting Nuisance:* It is hereby declared that weeds constitute a nuisance when they:

(1) create a fire hazard;

(2) are a source of contamination or pollution of the water, air or property

(3) are a danger to health;

(4) are a breeding place or habitation for insects or rodents or other forms of life hazardous to humans; or

(5) are unsightly or deleterious to their surroundings.

(B) *Height Limitation:* It shall be unlawful for any person, firm, corporation, partnership, association of persons, owner, agent, occupied or unoccupied, improved or unimproved, within the corporate limits of Fielding Town to suffer or permit a significant area of grass, weeds or brush that is uncultivated or grow to a greater height than twelve inches (12") on any lot, tract, parcel or land within the corporate limits of Fielding Town, except this shall not apply to those tracts engaged in the growing of agricultural crops and/or pasture.

(C) *Removal:* The cut weeds shall be removed from the premises within twenty-four (24) hours after cutting.

4-3-3: Penalty

It shall be an infraction and subject to penalty as provided in section 1-4-1 of this code for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this chapter or not remove from such property any cuttings

of such weeds or any refuse, unsightly or deleterious objects after having been given notice from Fielding Town.

Chapter 4: Abatement of Violations

Section:

4-4-1: Authority to Abate Violations–Responsibility
4-4-2: The Municipal Inspector
4-4-3: Notice of Violation
4-4-4: Failure to Cure
4-4-5: Failure to Pay

4-4-1: Authority to Abate Violations–Responsibility

(A) *Authority:* Any condition caused, permitted, or maintained in violation of any provision of this Title 4 may be abated by Fielding Town pursuant to the procedures set forth in this Chapter.

(B) *Responsibility:* The owner of any property, as well as any non-owner occupant thereof, has an affirmative duty to maintain that property free of any violation under section 4-1-1.

4-4-2: The Municipal Inspector

(A) *Appointment:* Pursuant to Utah Code Ann. § 10-11-1(1)(b), the Fielding Town Council may appoint a municipal inspector for the purpose of carrying out inspections and directing abatements as provided in this chapter.

(1) In addition to any appointed municipal inspector, the mayor, any member of the town council, or the town recorder may act as a municipal inspector and have all powers as designated in this section

(B) *Powers:*

(1) The municipal inspector shall examine and investigate real property in Fielding Town to ascertain the existence and extent of any violation of the provisions of section 4-1-1 hereof.

(2) Upon finding that a violation of section 4-4-1 exists, the inspector shall deliver written notice thereof in accordance with section 4-4-3.

(3) The inspector may neither authorize nor direct the abatement of conditions associated solely with a structure's interior unless required for the structure's demolition and removal.

4-4-3: Notice of Violation

(A) *Contents:* The written notice of violation described in subsection 4-4-2(B)(2) shall:

(1) Identify the property owner according to the records of the county recorder;

(2) Identify and describe the property;

(3) Explain the nature and results of the inspector's examination under subsection 4-4-2(B)(1), specifically describing the violation(s) existing on the property; and

(4) Order the property owner to eradicate, remove, repair, or otherwise abate the identified violation(s) on the property within a reasonable period of time, as determined by the inspector, but in no case fewer than ten (10) days after the written notice is delivered in person or postmarked.

(B) *Service:*

(1) The inspector shall mail the written notice of violation:

(a) To the last-known address of the property owner as given in the records of the county recorder; and

(b) To the property address, if different from the address in subsection 4-4-3(B)(1)(a).

(C) The inspector shall serve the written notice of violation under penalty of perjury.

4-4-4: Failure to Cure

(A) *Abatement:* If the owner or other party responsible for the property identified in the written notice of violation fails to comply with the inspector's order pursuant to subsection 4-4-3(A)(4), the inspector, at the town's expense, may employ such assistance as necessary to enter the property and eradicate, remove, repair, or otherwise abate the violation identified in the written notice of violation.

(B) *Statement of Expenses:* Upon completion of the abatement contemplated in subsection 4-4-4(A), the inspector shall prepare a statement of expenses including:

(1) The address of the property upon which the inspector has conducted the abatement;

(2) An itemized list of and demand of payment for all expenses incurred by the town in conducting the abatement under subsection 4-4-4(A), including administrative costs;

(3) Notice to the property owner that:

(a) failure to pay the expenses set forth in the itemized list could result in a lien being filed against the property;

(b) the property owner may file a written objection to all or any part of the statement of expenses within twenty (20) days after the date the statement was mailed; and

(c) includes the address of the town offices where payment may be made or an objection filed.

(4) The statement of expenses shall be mailed by certified mail to the property owner's last-known address, according to the records of the county recorder, within 30 days after completion of the abatement conducted pursuant to subsection 4-4-4(A).

(5) The town may file notice of a lien against the property, including a copy of the statement of expenses or a summary thereof, in the office of the county recorder.

(a) Upon the property owner's payment of the costs set forth in the statement of expenses, the town shall file a release of the lien filed under subsection 4-4-4(B)(5).

(C) *Objection and Hearing:*

(1) If a property owner files a timely written objection to the statement of expenses under subsection 4-4-4(B)(3)(b), the town council shall hold a hearing wherein it shall review and determine the actual cost of the abatement.

(a) The hearing shall be held in accordance with Title 52, Chapter 4 of the Utah Code, the Open and Public Meetings Act.

(b) Notice of the date, time, and place of the hearing shall be mailed to the property owner at least ten (10) days prior thereto.

(2) If, after the hearing, the town council determines that actual costs are owing, the property owner shall pay the costs due to the town treasurer within 30 days after the date on which the hearing is held.

4-4-5: Failure to Pay

If the owner of property subject to an abatement conducted pursuant to subsection 4-4-4(A) fails to pay the costs due and owing under subsections 4-4-4(B)(2) or 4-4-4(C)(2), the town may:

(A) Seek judicial foreclosure of a lien filed under subsection 4-4-4(B)(5);

(B) File an action in district court for the costs due and owing, including removal and destruction expenses, administrative costs, and reasonable attorney fees, interest, and court costs, and execute on any judgment obtained as provided by law; or

(C) Certify to the county treasurer the unpaid costs and expenses that the town incurred in conducting the abatement for entry on the assessment and tax rolls of the county, pursuant to Utah Code Annotated § 10-11-4 or its successor statute(s), as a political subdivision lien.

(1) The town may pursue judicial foreclosure to enforce the lien under section 4-4-5(C) rather than relying on a tax sale.

(a) The municipality shall record the lien in the office of the county recorder.

(b) The priority date of the lien is the date on which the town records the lien.

(2) Payment by the property owner of the costs and expenses entered upon the tax rolls by the county treasurer releases the lien against the property, and the town shall thereupon record in the county recorder's office a release of the lien.

TITLE 5: PUBLIC SAFETY

Chapter 1: Animal Control

Section:

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5-1-1: Administration

(A) *Resolution of Disputes:* The Town Council or an animal control officer appointed pursuant to subsection 5-1-1(B) shall resolve dog related disputes within the corporate limits of Fielding Town.

(B) *Animal Control Officer:* The animal control officer, is a part of and under the supervision of the Fielding Town Council and shall be appointed by the town council to administer and regulate animal control issues in Fielding Town.

(1) Whenever a power is granted to, or a duty is imposed upon the animal control officer, the power shall be exercised or the duty shall be performed by the animal control officer, or by any person or organization, its officers, agents, and employees, designated by contract or otherwise to enforce this chapter.

(2) An animal control officer shall take an oath of office and shall be vested with the power and authority to enforce the provisions of this chapter.

(C) *Duties of an Animal Control Officer:* An Animal Control Officer shall:

(1) enforce the provisions of this chapter in all respects pertaining to animal services within the jurisdiction including the care and impounding of animals and prevention of cruelty to animals; and

(2) carry out all duties prescribed or delegated by the Fielding Town Council.

(D) Power and Authority of Animal Control Officers:

(1) An animal control officer shall have the powers contained in the ordinances of Fielding Town.

(2) An animal control officer may issue a citation, in accordance with Utah Code Ann. §§ 10-3-703(3) and 77-7-18(1) & (2)(d), requiring a person to appear at the court of a magistrate with territorial jurisdiction.

(i) If a citation is issued the town council or animal control officer shall issue one copy to the person cited and shall within five (5) days file a duplicate copy with the court specified in the citation.

(3) An animal control officer is hereby authorized and empowered to apprehend and take with them and impound any animal found in violation of this chapter, including licensable animals for which no license has been procured in accordance with this chapter, or any licensed or unlicensed animals for any other violation thereof.

(4) To the extent allowed by the Fourth Amendment of the U.S. Constitution and Article I, Section 14 of the Utah Constitution, any law enforcement officer or animal control officer is authorized to enter into the open premises of any person to secure, restrain or take possession of any animal which is reasonably deemed by such officer to be in violation of this chapter and issue criminal citations and/or notice of violation and stipulations for violations of this chapter to the owner, custodian or handler of such animal.

5-1-2: Definitions

Whenever the following words or terms are used in this chapter, they shall have such meanings herein ascribed to them:

ADDITIONAL PET: Any dog in addition to the amount allowed per household.

ANIMAL CONTROL OFFICER: An individual appointed pursuant to subsection 5-1-1(B) and as defined by Utah Code Ann. § 11-46-102(2).

ANIMAL SHELTER: Any facility owned and operated by a governmental entity or any animal welfare organization, which is incorporated within the state of Utah, for the purpose of preventing cruelty to animals and used for the care and custody of seized, stray, homeless, quarantined, abandoned or unwanted dogs, cats or other domestic animals.

AT LARGE: A dog shall be considered to be "at large" when it is off the owner's property and not under immediate control, by means of a durable restraint device, capable of keeping the dog restrained.

AUTHORIZED AGENT: Any person authorized by the Fielding Town to assist in animal control efforts including, but not limited to, any law enforcement officer.

BITE: Any actual puncture, tear or abrasion of the skin inflicted by the teeth of an animal.

DANGEROUS ANIMAL: Any animal that, according to the records of the town or county police agency:

(A) Has inflicted serious injury on a human being, with or without provocation, on public or private property;

(B) Has killed or injured a domestic animal, with or without provocation, while off the owner's property;

(C) Has previously been found to be "potentially dangerous," the owner having received notice of such, and it is witnessed and documented that the animal aggressively bites, attacks or endangers the safety of humans or domestic animals;

(D) The animal is found to be in violation of any restrictions placed upon the animal pertaining to a potentially dangerous animal, as designated in this chapter.

DOG: Any canine over six (6) months of age. Any canine under six (6) months of age is a puppy.

DOMESTIC ANIMAL: Animals accustomed to living in or about the habitation of man, including, but not limited to, cats, dogs, rabbits, fowl, horses, swine, goats, sheep, mules, donkeys, llamas and cattle.

KENNEL: Land or buildings used in the keeping of four (4) or more dogs, six (6) months or older.

NONCONFORMING: Anyone in conflict with this chapter, as to the number of dogs, upon its enactment.

OFFICER: The person or persons appointed by the mayor and town council to give citations and impound dog(s) as needed.

OWNER: Any person or persons, association, firm, or corporation owning, keeping or harboring a dog.

POTENTIALLY DANGEROUS ANIMAL: Any animal that, with or without provocation, chases or approaches a person upon the streets, sidewalks or any public grounds, in a threatening or menacing fashion, or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack with or without provocation. In addition a potentially dangerous animal is any animal that, because of witnessed and documented action, is believed capable of causing injury, or otherwise posing a threat to the safety of humans or domestic animals.

QUARANTINE: The isolation of an animal in a substantial enclosure, so the animal is not subject to contact with other animals or unauthorized persons.

RESTRAINT DEVICE: Any chain, leash, cord, rope or other device commonly used to restrain an animal.

VICIOUS ANIMAL: Any animal which:

(A) Has inflicted serious injury on a human being, with or without provocation, on public or private property;

(B) Has killed or injured a domestic animal, with or without provocation, while off the owner's property;

(C) Has previously been found to be a "dangerous animal", the owner having received notice of such and the animal again bites, attacks or endangers the safety of humans or domestic animals; or it is witnessed and documented that the animal is in violation of restrictions placed upon the animal pertaining to a potentially dangerous or dangerous animal, pursuant to section 5-1-5 of this chapter.

WORRY: To harass by tearing, biting, or shaking with the teeth, with or without provocation.

5-1-3: License and Registration of Dogs

(A) *License and Registration:*

(1) License Required: It is unlawful for any person to own, keep, harbor, board or maintain a dog within the Fielding Town limits, without registering and obtaining a license for such dog(s), available from the Fielding Town recorder or other person designated by the mayor and town council.

(2) *When to Apply:* The license may be applied for any time after January 1, and up to May 31 of any year.

(3) *Time Limit to Register:* All dogs brought into Fielding Town shall require registering and licensing within thirty (30) days after they enter Fielding Town, or within thirty (30) days after reaching the age of six (6) months.

(4) *Late Fee:* Persons who fail to obtain a license, as required within the time period specified in this section, will be subject to an additional licensing "late fee."

(5) *Information Required:* The owner shall state at the time of application for license, the owner's name, address, and the dog's name, sex, breed, and color.

(6) *Proof of Spay Or Neuter; Exception:*

(a) No dog shall be licensed as spayed or neutered without proof that the surgery has been performed.

(b) An exception is allowed if a written statement is received from a licensed veterinarian stating that the animal in question cannot, for a stated reason, have the surgery performed, or that the animal is of such an age that the surgery would not alter the outcome.

(7) *Rabies Inoculation; Exceptions:*

(a) Proof that the dog has a current rabies inoculation shall be present at the time the license is applied for. Proof must be in writing and must include the name and signature of the licensed veterinarian who administered the vaccine.

(i) Exception: If a written statement is received from a licensed veterinarian stating that the animal in question cannot, for stated reasons, have a rabies inoculation.

(b) Rabies vaccinations become invalid after two (2) years from the date of vaccination, unless otherwise shown on the rabies certificate. Vaccinations expiring January through June of the license year will be required to be brought current prior to licensing.

(i) Exception: If a written statement is received from a licensed veterinarian stating that the vaccination will be valid through the current calendar year.

(B) *Fees For Dog Licensing:*

(1) The town shall issue no dog license until the required fee, as set forth in the Fielding Town fee schedule, is paid.

(2) The license fee shall cover the calendar year in which it was issued; expiring on December 31 of the year of issuance, regardless of the date when issued.

(C) *Tag And Collar:*

(1) Requirements: Upon payment of the license fee, the owner shall be issued a license certificate and a numbered metal tag for each dog so licensed. The tag shall change each year and shall have stamped thereon the year for which it was issued. Every dog owner, except those operating a boarding kennel or other such establishment, shall provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn.

(2) Duplicate License: In case a dog tag is lost or destroyed the recorder, upon presentation of the license for the current year, will issue a duplicate.

(3) Nontransferable; Refunds: Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of the death of the dog or the owner leaving the municipality before expiration of the license period.

(4) Unlawful To Deprive: It shall be unlawful to deprive a registered dog of its collar and/or tag.

(5) Nuisance Declared: Any dog(s) without a collar with the registration tag attached or which has not been registered, is hereby declared a public nuisance and shall be immediately impounded.

(D) *Number of Dogs Per Residence:*

(1) Specified: No person or persons at any one residence within the jurisdiction of this chapter, shall at any one time own, keep or harbor, board, license or maintain more than three (3) dogs, six (6) months or older.

5-1-4: Kennel Licenses

It shall be unlawful for any person to operate or maintain a kennel without first complying with federal, state, and local law and obtaining a kennel license from the **town** as follows:

(A) Animal owners making application for a kennel license shall first seek approval from the town council and the local health department.

(1) Before a kennel license can be issued:

(a) an inspection by the town's animal control officer must be completed of the premises upon which the kennel will operated to ensure the kennel will not create a nuisance and will not otherwise violated any other provision of this code or other town ordinances; and

(b) local health department regulations must be met.

(B) No kennel license shall be issued in violation of local land use or health regulations.

(C) The applicant must comply with any other federal, state, or local laws.

(D) All applications for permits to operate such establishments shall be submitted, together with the required permit fee, on a printed form provided by the town.

(E) Kennel licenses shall be valid for one (1) year from the date of issuance.

(F) The procedures relating to a kennel or kennel license set forth in this section and elsewhere in this chapter shall are the same for a cattery or cattery license and shall administered accordingly.

5-1-5: Dogs at Large

It shall be unlawful for any dog to be allowed, either intentionally, knowingly, recklessly, or negligently, to run "at large" as defined in this chapter. Any dog so found is hereby declared to be a nuisance and a menace to the public health and safety, and shall be taken up and impounded as provided herein. Whenever possible the owner shall be notified. The owner or keeper may be cited.

5-1-6: Dangerous and/or Vicious Animals

(A) *Possession of Potentially Dangerous Animal:* Any person or persons who owns or maintains a potentially dangerous animal shall use all reasonable means at his/her disposal to restrict a potentially dangerous animal from injuring any person or other animal. The town may from time to time, impose specific restrictions regarding the housing of potentially dangerous animals.

(B) *Failure To Properly Confine Potentially Dangerous Animal:* It is a violation for any owner of any potentially dangerous animal who intentionally, knowingly, or

recklessly allows it to go at large or who fails to hold the same in the manner specified for such an animal by Fielding Town.

(C) Possession of Dangerous Animal:

(1) Any dangerous animal while on the owner's property must be securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure for a dangerous animal shall have secure sides and top and shall also provide protection from the elements for the animal. The pen or structure shall be such that the animal cannot burrow or dig under the sides of the enclosure.

(2) Dangerous animals, when outside the enclosure, must be under the immediate control of a responsible adult by means of an adequate restraining device as defined herein and muzzled. The muzzle shall be made in such a manner that it will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

(3) The town officer may take into immediate possession any dangerous animal if the officer determines:

(a) That the animal is not maintained in a proper enclosure; or

(b) That the animal is outside of the owner's dwelling or outside of a proper enclosure and not under physical restraint; or

(c) If there are any further violations of any legal restrictions previously placed on such animal provided in this section.

(D) *Declaration And Disposal Of Vicious Animals:* If the town officer determines, as a result of a witnessed incident, that an animal is potentially a danger or dangerous and finds that the animal is in violation of such restrictions as the town has deemed necessary for the safety of persons and/or animals in the community, the animal may be declared a vicious animal. The town may immediately take possession of the vicious animal and place said animal in a proper quarantine facility and thereafter destroy the animal in an expeditious and humane manner if the owner or custodian after having received notice of such fails to make a request in writing to the quarantine facility to delay said action.

(1) It is determined that a proper holding period for any vicious animal shall be three (3) working days. In the event the owner or custodian of the vicious animal fails to request, in writing, a formal hearing within the three (3) day

holding period the holding facility is authorized to destroy the vicious animal in a humane manner. The holding period shall be extended to meet state and local regulations for quarantine for animals needing rabies evaluation.

(2) Any owner or custodian who files a written request shall be afforded a hearing before the Fielding Town council. It shall be the responsibility of the council to determine whether the animal should be returned to the owner or custodian to be destroyed.

(a) At any hearing under this subsection, the officer making the declaration of a vicious animal shall appear and testify, under oath, regarding the facts, which led to the required findings. The officer shall be subject to cross examination by the owner, custodian or authorized representative.

(b) The officer may also present any additional evidence or sworn testimony supporting his/her decision. The owner or custodian of the animal may likewise present evidence or sworn testimony in support of his/her position. The hearing shall be informal, but shall be recorded.

(c) The animal shelter shall not order the destruction of the animal until a decision is rendered and the Fielding Town council notifies the shelter, in writing, of the decision.

5-1-7: Nuisance Animals

(A) *Animals Declared Nuisance; Penalty:* Any person having custody of a dog(s) shall exercise proper care and control of his/her animal(s) in order to prevent it from becoming a public nuisance. Any owner or possessor of an animal who keeps such animal contrary to the provisions of this section shall be guilty of a violation and subject to punishment under authority of this chapter. An animal shall be deemed to be a public nuisance if the animal:

(1) causes damage to, damages, or destroys property of anyone other than the animal's owner;

(2) causes unreasonable odors;

(3) causes unsanitary conditions;

(4) by loud, continued, or frequent barking, howling or yelping, shall annoy, disturb or endanger the health and welfare of any person or

neighborhood, attested to by more than one complainant or witnessed by Fielding Town's animal control officer;

(5) chases any person, vehicle, bicycle or other animal that is properly restrained;

(6) bites, attacks, chases or worries a person or domestic animal;

(a) Owner Liable: The owner in violation of the above shall be strictly liable for damages to any person injured or to the owner of any animal(s) injured or destroyed thereby.

(b) Exception: A dog shall not be considered a public nuisance under this section if it bites a person who is wrongfully assaulting the dog or the dog's owner, or if it bites a person upon the premises owned or occupied by the dog's owner after being provoked by that person.

(7) scatters garbage;

(8) urinates or defecates on property of another or town property;

(9) is an animal, which has, been impounded for being at large, or its owner or possessor has been convicted for a dog being at large on three (3) separate occasions within a twelve (12) month period;

(10) is an animal previously declared potentially dangerous or dangerous and is found in violation of restrictions placed on that dog by the town;

(11) if the dog trespasses on private property of a person other than the dog's owner.

(B) *Abatement of Public Nuisance Animals:*

(1) "Abatement" shall be defined to include either relocating or euthanizing the animal.

(2) When it reasonably appears to the town that an animal is a "public nuisance" as defined in this chapter, and that such nuisance should be abated, the town appointed officer shall first attempt to get written consent of the animal's owner to abate the animal.

(3) If the animal's owner's consent cannot be readily obtained, the town may file with the governing court a charge of maintenance of a public nuisance.

The charge shall set forth the facts, according to the best information, indicating that the owner is maintaining a public nuisance, and the nuisance should be abated. Until such time as the owner may be summoned to appear before the court, the animal(s) may be impounded, and held pending a decision by the court.

(4) If the charge is denied, a hearing will be set pursuant to the normal procedure of the governing court. If the court finds that the charge of maintaining a public nuisance has been proven, the court shall issue an order setting out the method of abatement.

(5) Abatement, by relocation, shall not be an option if the animal represents a continuing threat or serious harm, such as in the case of a vicious dog.

(6) If relocation is ordered, the court may set whatever conditions are necessary to guarantee that the animal shall not constitute a nuisance in the future.

(7) In the event the court determines that, in fact, the animal is a public nuisance, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fee that may incur as a result of such impoundment.

5-1-8: Rabies Control and Animal Bites

(A) *Vaccination Requirements:* All dogs shall be vaccinated by a duly licensed veterinarian or at a rabies clinic. Every dog shall be revaccinated every two (2) years thereafter. Any unvaccinated dog over six (6) months of age, adopted, or brought into the jurisdiction, must likewise be vaccinated initially. Thereafter valid protection must be maintained.

(B) *Impoundment of Animals Without Valid Rabies Vaccination Tag:*

(1) Its owner may reclaim any vaccinated animal impounded because of lack of a rabies vaccination tag by furnishing proof of a rabies vaccination and payment of all impoundment fees prior to release.

(2) Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining or providing proof of a rabies vaccination within seventy two (72) hours of release.

(3) Any animal not reclaimed within the prescribed period of time shall be disposed of pursuant to this chapter.

(C) *Rabid Animal Reports:* Any person having knowledge of the whereabouts of an animal known to have been exposed to or suspected of having rabies or of an animal or person bitten by such a suspected animal shall notify Fielding Town or the Bear River Health Department.

(D) *Quarantine And Disposition of Biting Animal:*

(1) An animal that has rabies or shows signs of having rabies and every animal bitten by another animal affected with rabies or that has been exposed to rabies shall be reported, by the owner, as set forth above, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal in question to the town officer or designated agent upon demand.

(2) The owner of any animal that has been bitten by another animal known to be capable of harboring the rabies virus shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this chapter may enter upon private property to seize the animal if the owner refuses to surrender the animal.

(3) Any animal subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than fourteen (14) days by the animal shelter. The owner of the animal shall bear the cost of confinement. The animal shelter shall be the normal place for such quarantine, but other arrangements, including confinement by the owner, may be made by the officer if the animal has current rabies vaccinations at the time the bite is inflicted or if there are other special circumstances justifying an exemption. A person who has custody of an animal under quarantine shall immediately notify Fielding Town if the animal shows any sign of sickness or abnormal behavior or if the animal escapes confinement. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow an officer or representative of the health department to make an inspection or examination during the period of quarantine.

(a) If the animal dies within fourteen (14) days from the date of the bite the person having custody shall immediately notify Fielding Town office in order that they may have the head immediately removed and delivered to the state health department.

(b) If at the end of the fourteen (14) day period an investigating officer of the town or animal shelter examines the animal and finds no sign of rabies, the animal may be released to the owner. In the case of a stray it shall be disposed of as provided in this chapter.

(4) In the case of an unvaccinated animal known to have been bitten by a known rabid animal, such bitten or exposed animal shall be immediately destroyed.

(E) *Bites; Duty To Report:*

(1) Any person having knowledge of any individual or dog having been bitten by an animal subject to rabies shall report the incident immediately to the Fielding Town animal control officer, if one exists and is available, or the Box Elder County Sheriff's Office.

(2) The owner of a dog that bites a person and any person bitten by a dog shall report the incident within twenty four (24) hours of the bite to the Fielding Town animal control officer, if one exists and is available, or the Box Elder County Sheriff's Office.

(3) A physician or other medical personnel who renders professional treatment to a person bitten by a dog shall report the fact that he/she has rendered professional treatment to Fielding Town animal control officer, if one exists and is available, or the Box Elder County Sheriff's Office within twenty four (24) hours of the first professional attendance. they shall report the name, sex and address of the person bitten, as well as the type and location of the bite. If known, they shall give the name and address of the owner of the dog that inflicted the bite, and any other facts that may assist the Fielding Town animal control officer, if one exists and is available, or the Box Elder County Sheriff's Office.

(4) Any person treating an animal bitten, injured or mauled by another animal shall report the incident to the Fielding Town animal control officer, if one exists and is available, or the Box Elder County Sheriff's Office. The report shall contain the name and address of the owner of the wounded, injured, or bitten animal, the name and address of the owner and description of the animal that caused the injury, and the location of the incident.

(5) Any person not conforming to the requirements of this section shall be in violation of this chapter.

5-1-9: Nonconforming Owners

An owner who is "nonconforming", will stay as such until such time that they come into compliance by reducing the number of dogs, due to death, selling or giving away of their current dogs, after such time they will be held to the terms of this chapter.

5-1-10: Impoundment

(A) *Animal Shelter:* Any impounded animals shall be adequately housed and fed.

(B) *Impoundment Authorized; Conditions:*

(1) All animals taken into custody shall be placed in an adequate shelter which Fielding Town or the animal control officer has arranged, provided, or contracted for this purpose.

(2) The following animals may be taken into custody and impounded as deemed necessary by the Fielding Town, an authorized agent, or the animal control officer:

(a) any dog being kept or maintained contrary to the provisions of this chapter;

(b) any dog running at large, with any reasonable means used to immobilize;

(c) any dog which is not licensed;

(i) A dog not wearing a tag shall be presumed to be unlicensed for the purpose of this section.

(d) any abandoned or neglected dog(s) whose safety may be threatened should the animal not be readily placed into protective custody;

(e) dog(s) which are not vaccinated for rabies in accordance with the requirements of this chapter;

(f) any animal needing to be held for quarantine; or

(g) any potentially dangerous or dangerous animal not properly confined as required by this chapter.

(C) *Redemption Requirements:*

(1) The owner of an impounded animal or their authorized representative may redeem such animal before disposition, provided he/she pays:

(a) the impound fees;

(b) the daily board charges;

(c) any veterinary costs incurred during the impoundment period;

(d) transportation fee, if any; and

(e) any other expenses incurred to impound an animal in accordance with state or local laws.

(2) Fees for impound and boarding shall be set from time to time by the agency contracted for impounding of animals by Fielding Town.

(D) *Terms Of Impoundment, Destruction And Disposal Of Animals:*

(1) For licensed animals, impoundment is at the discretion of the animal control officer or Fielding Town, but shall not be for more than three (3) working days, except as provided in subsection 5-1-9(D)(2) and (3).

(2) Except as provided in subsection 5-1-9(D)(3), dangerous animals and potentially dangerous animals shall be impounded for a minimum of five (5) working days before further disposition.

(3) Any unidentified or unclaimed animal shall be impounded for a minimum of five (5) working days before further disposition and shall be maintained, returned, or disposed of as required in Utah Code Ann. § 11-46-23.

(4) Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner.

(5) Any animal voluntarily relinquished to the animal control facility, by the owner thereof, for destruction or other disposition need not be kept for the minimum holding period before release or other disposition, as herein provided.

(6) All animals, except those quarantined or confined by court order, which are held longer than the minimum impoundment period and all animals voluntarily relinquished to the impound facility may be destroyed. Any healthy dog may be sold at the discretion of the animal shelter.

(7) Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention may, at the discretion of the animal shelter be released to the care of a veterinarian with or without the consent of the owner.

(8) When, in the judgment of the animal shelter, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to person or property such animal may be destroyed

without regard to any time limitation otherwise established in this chapter and without a court order.

5-1-11: Interference with Animal Control Officer

(A) It shall be unlawful for any person to intentionally or knowingly interfere with an animal control officer or any person or organization, its officers, agents, and employees, designated by contract or otherwise, to enforce this chapter, in the lawful discharge of their duties as herein prescribed.

(B) It shall be unlawful for any person to give or provide false personal identification information to any Animal Control Officer.

(C) Any person convicted of violating this subsection is guilty of a class B misdemeanor.

5-1-12: Penalty

Unless otherwise specifically provided a violation of any provision of this chapter shall be punished as an infraction.

Chapter 2: Livestock

Section:

5-2-1: Definitions
5-2-2: Fences and Enclosures
5-2-3: Livestock Running at Large
5-2-4: Exception
5-2-5: Penalty

5-2-1: Definitions

Whenever the following words or terms are used in this chapter, they shall have such meanings herein ascribed to them:

AT LARGE: Not "properly restrained" as defined in this section.

LIVESTOCK: Any normally domesticated animal that is ordinarily kept on a farm, such as cattle, swine, sheep, goats, mules, burros, horses, geese, turkeys, llamas, etc.

PROPERLY RESTRAINED: Any animal, including livestock, is properly restrained if it is under the control of its owner or person having charge, care, custody or control, except an animal shall not be considered under control of the owner unless on a leash or lead, confined within a vehicle, or restrained within the real property limits of the owner by a fence or enclosure.

5-2-2: Fences and Enclosures

Fences and enclosures are to be constructed so as to be adequate for the size and type of livestock to limit the livestock's movement to a specific area. The owner or person having charge, care, custody or control of any livestock, shall be liable under this chapter for failure to properly maintain such enclosure or fence.

5-2-3: Livestock Running at Large

It is unlawful for the owner or person having charge, care, custody or control of any livestock to intentionally, knowingly, or recklessly allow such livestock at any time to run at large. The owner or person charged with responsibility of livestock found running loose shall be strictly liable for a violation of this section and for any property damage or injury to a person or another animal caused by such livestock running at large.

5-2-4: Exception

If livestock is at large because of damage to the fence or enclosure caused by someone other than the livestock owner or person having charge, care, custody or control of the livestock, then the person or persons responsible for causing the damage to the fence or

enclosure shall be liable for damages and fines. The livestock owner or person having charge, care, custody or control of the livestock must repair the fence or enclosure as quickly as possible to prevent further damage.

5-2-5: Penalty

It is a class B misdemeanor for any person violating any provision of this chapter, either by failing to do those acts required herein or by doing any act prohibited herein. Any person found guilty of violating this or any provision of this article shall be subject to a fine in an amount not to exceed one thousand dollars ($1,000.00) or imprisonment for a term not to exceed six (6) months, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

Chapter 3: Public Order and Decency

Section:

5-3-1: Unlawful Consumption of Alcohol in Public Places
5-3-2: Unlawful Public Acts

5-3-1: Unlawful Consumption of Alcohol in Public Places

(A) The following definitions shall apply for purposes of this section:

(1) ALCOHOLIC BEVERAGE: Any beverage as defined in Utah Code Ann. § 32B-1-102(3).

(2) PUBLIC PLACES: Any real property owned or leased by Fielding Town that is used for transacting public business, or regularly conducting governmental activities.

(B) *No Consumption Of Alcohol In Public Places:* A person may not consume an alcoholic beverage in a public place including buildings, parks, and open space except as provided by Utah state code.

(C) Penalty: A violation of this section is punishable as a class C misdemeanor.

5-3-1: Unlawful Public Acts

(A) The following are declared to be unlawful public acts:

(1) Depositing any foul, offensive, unwholesome, nauseating, dangerous, or otherwise injurious substance upon any public sidewalk, street, alley, thoroughfare, or other public place, or upon any private property within the limits of Fielding Town.

(2) Permitting or performing ablutions in or near any public fountain, reflecting pool, cascade, or other ornamental water feature.

(3) Defecating or urinating on a street, alley, sidewalk, or other public place.

(4) Writing or drawing lewd, obscene, indecent, or otherwise offensive words or images on or around a public toilet.

(5) Placing graffiti of any kind on any structure or surface without the express permission of the owner thereof.

(6) Creating or permitting conditions that obstruct, interfere with, or render dangerous to passage any street, sidewalk, lake, stream, drainage, canal, basin, or public park without written permission from the town council.

(7) Spitting or expectorating on the walls, floors, or furnishings of any public building or conveyance, or upon any sidewalk or street.

(B) A violation of this section is punishable as a class C misdemeanor.

Chapter 4: Business Practices

Section:

5-4-1: Unlawful to Operate a Business Without a License
5-3-2: Unlawful Public Acts

5-3-1: Definitions

(A) The following definitions shall apply for purposes of this section:

(1) BUSINESS: All kinds of vocations, occupations, professions, trades, enterprises, establishments, services provided, 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 town or anywhere else within its jurisdiction.

(2) BUSINESS LICENSE: A written business license certificate issued by the business licensing authority allowing a person to operate and maintain a home occupation or business under the provisions of this chapter.

(3) LICENSING AUTHORITY: The town authority designated to administer this chapter in relation to business licenses, issue a business license, or review and/or revoke a business license.

(4) REGULATING AUTHORITY: Any federal, state or local authority, or professional organization that holds authority to regulate a person or business. A regulating authority includes such entities as the Utah Division of Occupational and Professional Licensing, the local health department, the Utah State Bar, the fire Marshall or related designee, the local planning commission, any land use authority, and similar authorities.

(5) SOLICITING, SOLICIT, OR SOLICITATION: Any of the following:

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

(b) Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

(c) Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;

(d) Seeking to obtain order or prospective customers for goods or services;

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

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

(6) SOLICITOR: A person engaged in door-to-door solicitation.

5-3-2: Applicability

(A) The following types of businesses are required to obtain a license before engaging in such business within the town:

(1) Any business.

(2) Any temporary business.

(3) Any home occupation.

(4) A solicitor

(5) A business leasing or renting residential apartment buildings or houses.

5-3-3: Classification

All businesses shall be classified by the licensing authority, and any license fees shall be uniform in respect to the class upon which they are imposed.

5-3-4: Applicability of other Laws

It is the continuing duty of the business owner to ensure that the business is operating within the law. Businesses in the town shall comply with the other applicable laws and ordinances that govern the business, including, but not limited to: applicable federal, state, and local law; applicable regulations enforced by any regulating authority; land use ordinances; and applicable building and fire codes.

5-3-5: Posting License Required
It shall be the duty of any person conducting a licensed business in the town to display the business license issued by the town. Such license shall be posted in a prominent place on the premises used for such business at all times.

5-3-6: License Period
All licenses will be issued on yearly basis and shall expire as of December 31 of the issuing year, regardless of the date issued.

5-3-7: Branch Establishments
A separate license must be obtained for each branch establishment or separate location of a business engaged within the town, as if such branch establishment or location were a separate business. Each business license authorizes the licensee to engage only in the business licensed at the location and in the manner designated in such license.

5-3-8: Separate Businesses on Same Premises
Where two or more persons conduct separate businesses at the same location, each such person shall obtain a separate business license for each such business and must pay the required business license fee for such business.

5-3-9: Inspections
A business license holder shall permit all reasonable inspections of his/her business by the licensing authority or a duly authorized representative of any legal regulating authority.

5-3-10: Updated Information Required
A business license holder shall ensure that contact information supplied to the town for purposes of notification is kept current.

5-3-11: Qualifications of Business License Applicants
(A) *Character:* To procure a business license, the town may consider the character of the applicant as follows:

(1) all criminal convictions of the applicant, the reasons therefor and his/her demeanor subsequent to such conviction;

(2) the business license history of the applicant and whether such person, in previously operating in this state or another state under a business license, has had such business license revoked or suspended, the reasons therefor, and the demeanor of the applicant subsequent to such action; and

(3) any additional facts concerning the applicant's moral character that are relevant to the operation of the business for which a business license application has been made and its effect on the public.

(B) *Prior Defaults:* business licensing authority may refuse to grant a business license to any applicant who has willfully refused previously to comply with the provisions of this chapter where compliance was required, or who is indebted to the town on any past due obligation (unless operation of the business will remedy the past due obligation).

5-3-12: Zoning Conflict

No business license shall be granted to any business license applicant where the conduct of the proposed business will constitute a violation of the town land use code or ordinances. Any business license issued contrary hereto is void. An application for business license may be denied if there are existing violations on the property for which the license is requested.

5-3-13: Exceptions from Business Licensing Requirements

A business license shall not be required for the following:

(A) A person engaged in business for solely religious purposes who is tax exempt in such activities under the laws of the United States and the State of Utah and registered as a non-profit organization.

(B) Any person exempted by state law.

(C) Any business:

(1) holding valid license issued or exempt in the local jurisdiction in which the licensee has its place of business within the State of Utah; and

(2) registered by the State of Utah.

(D) Any person selling surplus household goods or furnishings at a private residence in the garage or yard, if such sales are held less than ten days in a year.

5-3-14: Unlawful to Operate a Business Without a License

All businesses operating in the town shall be licensed for the purposes of regulation and revenue and shall also be subject to any applicable regulations established by ordinance.

(A) It shall be unlawful for any person to engage in any business or similar operation within the town, whether on a temporary or permanent basis, without first procuring the license(s) required by this chapter.

(B) All licenses under the provisions of this chapter are non-transferable and expire as set forth in this chapter.

5-3-15: Unlawful Uses of a Business License

(A) It is unlawful to do any of the following with a business license:

(1) Counterfeit a license.

(2) Deface or mutilate a license that is required to be posted.

(3) Steal or otherwise remove a license.

(4) Sell or otherwise transfer any license to another.

(5) Use a license beyond the scope for the business for which it was issued.

(6) Operate any licensed business after expiration of the business license or during a period when the business license is revoked or suspended.

TITLE 6: MOTOR VEHICLES AND TRAFFIC [RESERVED]

Chapter 1: Parking Regulations [RESERVED]

Section:

6-1-1: Parking Regulations Generally [RESERVED]

Chapter 2: Off-highway Vehicles

Section:

6-2-1: Adoption of Utah Off-highway Vehicle Code
6-2-2: Definitions
6-2-3: Designation Of Off-highway Vehicle (OHV) Routes
6-2-4: Operation Restrictions
6-2-5: State Registration Required
6-2-6: Speed Limits And Traffic Laws
6-2-7: Protective Headgear, Equipment Requirements

6-2-1: Adoption of Utah Off-Highway Vehicle Code

The rules and regulations of title 41, chapter 22 of the Utah Code, as applied to all off-highway vehicles other than snowmobiles, shall constitute the town ordinance for governing off-highway vehicles.

6-2-2: Definitions

The definitions shall be as stated in Utah Code Annotated title 41, chapter 22.

6-2-3: Designation of Off-Highway Vehicle (OHV) Routes

All town streets and roads within the town limits are allowable routes for OHVs, except roadways belonging to the state. (Code 2023)

6-2-4: Operation Restrictions

(A) Persons Under Sixteen (16) Years of Age:

(1) A person under eight (8) years of age may not operate and an owner may not give another person who is under eight (8) years of age permission to operate an off-highway vehicle on any public land, trail, street or highway of the town.

(2) No person under sixteen (16) years of age may operate and no owner may give permission to a person under the age of sixteen (16) to operate an off-highway vehicle on the designated streets of the town unless such person is under the direct visual supervision of an adult eighteen (18) years of age or older holding a valid driver's license.

(i) The violation of this provision shall be punishable as an infraction, with a maximum fine of fifty dollars ($50.00) per offense.

(B) *Persons Sixteen (16) Years of Age and Older: No* person sixteen (16) years or older shall operate an off-highway vehicle on the designated streets of the town unless such person has a valid driver's license.

(1) The violation of this provision shall be punishable as a class C misdemeanor.

6-2-5: State Registration Required

(A) All OHVs operated on the streets and roads of the town must be properly registered and display decals as required by Utah Code Title 41, Chapter 22.

(B) OHVs used for farming must have an "implement of husbandry sticker", as required by Utah Code section 41-22-5.5.

(C) The violation of this provision shall be punishable as a class C misdemeanor.

6-2-6: Speed Limits and Traffic Laws

(A) The maximum speed for off-highway vehicles shall be as posted for general motor vehicular traffic and the operation of off-highway vehicles shall otherwise be in accordance with all applicable motor vehicle laws and regulations.

(B) The violation of this provision shall be punishable consistent with speed and traffic violations for general motor vehicles.

6-2-7: Protective Equipment Requirements

(A) Persons Under Eighteen (18) Years of Age: A person under the age of eighteen (18) may not operate or ride on all-terrain type I vehicles, snowmobiles or motorcycles on public land unless the person is wearing a properly fitted and fastened United States department of transportation safety rated protective headgear designed for motorized vehicle use.

(B) Owner, Other Person Not to Give Permission: The owner of an off-highway vehicle or any other person may not give permission to a person who is under eighteen (18) years of age to operate or ride on an off-highway vehicle in violation of subsection (A) of this section.

(C) Exemptions: An operator and passengers of off-highway implements of husbandry operated in the manner prescribed by Utah Code sections 41-22-5.5(3) and (4) are exempt from the requirements of this section.

(D) Noise Control; Spark Arrester: An adequate noise control device and approved spark arrester device is required by all OHVs operated on town streets and roadways. Expansion chambers will not be allowed.

Penalty: Any person convicted of violations of this section is guilty of an infraction and shall be fined not more than fifty dollars ($50.00) per offense.