

Title 5

BUSINESS LICENSES

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Chapter 5.01

GENERAL REGULATIONS

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5.01.010 Purpose

Pursuant to powers granted by the State of Utah as set forth in various provisions of the Utah Code, as amended, the County intends by this Title to regulate and license businesses and occupations within its unincorporated limits, to maintain a current index of licensed businesses and occupations, and to regulate licensed entities. Where this Chapter imposes a greater restriction upon persons, premises or personal property than is imposed or required by such existing provisions of law, contract or deed, the provisions of this Title shall

control. The amendment of this Title does not preclude enforcement of violations or collection of business license taxes and penalty fees under this chapter which existed at the time of taxation or violation prior to the implementation of any amendment.

5.01.020 Definitions

For the purposes of this Title 5 only, the following terms shall be defined as follows.

A. “Alcoholic Beverage” shall have the same meaning as that assigned in Utah Code § 32B-1-101, as amended.

B. “ATV” means all-terrain street-legal vehicles as defined under the Utah Traffic Code, including Utah Code § 41-6a-1509.

C. “ATV Business” means all businesses that sell, rent, or guide ATVs or otherwise provide a client experience involving an ATV, including ATV sales and ATV outfitter, guide service, and rental businesses, to the extent permitted in this Title 5 and the Grand County Land Use Code. References to ATV Business shall include its owners, agents, and guides when acting in an official capacity for the ATV Business.

D. “ATV Rental Business” means all businesses that rent or lease ATVs for independent use by a customer for consideration. An ATV Rental Business may also provide ATV outfitting and guide services.

E. “ATV Outfitter and Guide Service Business” means all businesses that rent ATVs or allow use of ATVs during a guided tour or other service with an agent of the ATV Business by a customer for consideration. An ATV Outfitter and Guide Service Business may not provide ATVs rented or leased by a customer for their independent use for consideration.

F. “ATV Fleet” means all ATVs rented/leased, driven, or used by an ATV Business, including ATVs provided to a customer for their use as part of an outfitting or guide service and ATVs driven by an agent.

G. “ATV Rental Fleet” means all ATVs rented or leased by a customer for their independent use for consideration. An ATV Rental Fleet does not include ATVs driven solely by customers during a guided tour.

H. “Business” means and includes all activities or any enterprise, person, or entity, engaged in, carried on, or otherwise operated for the purpose of gain or economic profit in Grand County regardless of whether profit is made, including Special Events, except that the acts of employees rendering services to employers are not included in this definition.

I. “Community Zone” means an area which is critical to the peace, welfare, health and safety of a community, including designated School Zones; trails, including parkways; parks, open space, and sports facilities maintained by the County or the City of Moab; and areas in which local, state, and federal government offices are located.

J. “Engaging in Business” or “Carrying on Business” means and includes, without limitation, collecting fees or making sales in Grand County, operating a special event within Grand County, manufacturing goods or property, rendering personal services in exchange for consideration, or conducting other business activities in Grand County. The rendering of personal services by an employee to an employer under any contract of personal employment shall not be considered as engaging in business.

K. “Home Business” or “Home Based Business” means any Business which is conducted entirely within the principal residential building or within a permitted accessory structure and is clearly incidental, secondary and in addition to the use of the structure for residential dwelling purposes.

L. “License” means a certificate or document issued by the county evidencing permission or authority of its named holder to carry on a particular business or to pursue a particular occupation.

M. “Licensee” means the person to whom a license has been issued pursuant to the provisions of this chapter or to whom a consent, permit or registration has been granted pursuant to the provisions of this chapter when the term “licensee” is used in a general sense of this definition.

N. “Local Consent” means an authorization to sell, store, or otherwise lawfully use Alcoholic Beverages granted by the Grand County Commission under this Chapter and as required by the Utah Department of Alcoholic Beverage Control (“DABC”). As used herein, Local Consent shall include a Special Use Permit Local Consent for Special Events, as required by DABC.

O. “Motor Vehicle Business” means a Business which rents or leases Motor Vehicles, or otherwise provides a Motor Vehicle to a customer for their use as part of an outfitting or guide service, including but not limited to ATV Businesses.

P. “Non-Conforming Use” means a legal and continued use of property that was allowed under the zoning regulations at the time the use was established but which, because of subsequent changes in those regulations, is no longer a permitted use.

Q. “Parcel of Real Property” shall mean any identifiable unit of land that has been subdivided or condominiumized or is otherwise treated as separate for valuation or zoning purposes and represented by a unique Parcel Number assigned by Grand County;

R. “Person” means any individual, receiver, assignor, trustee in bankruptcy, trust, estate, firm, general or limited partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, limited liability company, or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

S. “Place of Business” means a location maintained or operated within the County at which a person engages in business and shall include taverns, cabarets, and any other place where the general public is invited or admitted for business purposes.

T. “Principal Office Address” means the main office or headquarters of the business, at which location business decisions are made.

U. “Retailer” means any person engaged in the sale or distribution of beer to the consumer.

V. “Short-Term Accommodations” shall have the meaning assigned in Article 10 of the Grand County Land Use Code, as amended.

W. “Special Events” shall have the meaning assigned in Section 8.16.030 of the Grand County General Ordinances.

X. “Overnight Accommodation Business” means any Business which rents or leases Short-Term Accommodations for less than thirty (30) days, as defined by the Grand County Land Use Code, as amended.

Y. “Owner” means any person or entity with an interest in and often dominion over the property, with exclusive use, control, or possession of property.

Z. “Vehicle” or “Motor Vehicle” means any vehicle included within Utah Code § 41-1a-102, including ATVs.

AA. “Wholesaler” means any person or persons other than a brewer engaged in the distribution of Alcoholic Beverages in wholesale or jobbing quantities, to retailers.

5.01.030 License required; Exemptions;

A. *Licensed required.*

1. It is unlawful for any Person to engage in, carry on, or operate any Business within, or use, operate, or maintain a physical location in, the unincorporated area of Grand County, State of Utah without first obtaining a business license required by this Chapter for each Principal Office Address, except as provided in Section 5.01.030.B.

2. It is unlawful for any Person to engage in, carry on, or operate any Overnight Accommodation Business within the unincorporated area of Grand County, State of Utah without first obtaining a business license required by this Chapter for each separate Parcel of Real Property rented or leased for Short Term Accommodations.

3. Every Person desiring to engage in business in the unincorporated areas of Grand County on a temporary basis shall be required to obtain a temporary business license before commencing to engage in such business. Temporary business licenses shall be good for thirty-one (31) calendar days from the date of issue.

4. Except as otherwise provided by Grand County Ordinance, all Special Events require a general or temporary business license.

5. All Businesses operating in a Non-Conforming Use require a general business license.

B. *Exemptions.* The following Businesses are exempt from the licensing requirements of this Chapter:

1. Businesses operated only occasionally by a Person under 18 years of age; and
2. Businesses without a physical location in the County IF 1) they are licensed by the City of Moab or the Town of Castle Valley; 2) the use permitted by the reciprocal license is otherwise legal in Grand County under local, state, and federal law, including but not limited to the Grand County General Ordinances and the Land Use Code; and 3) any Person doing Business in the unincorporated County shall provide to the office of the County Clerk a copy of its business license application within five (5) business days of submission to the City of Moab or Town of Castle Valley and a copy of its business license within five (5) business days of issuance by the City of Moab or Town of Castle Valley. In the event an exempt Business violates this Title 5, the County may revoke the exemption pursuant to the procedures set forth herein, including but not limited to Sections 5.01.140 and 5.01.150.

5.01.040 Sales and Use Tax Affidavit

Each Business Sales and Use Tax License Number (or AirBnB/VRBO Account Number, or similar equivalent) shall submit a Sales and Use Tax Affidavit, on forms maintained by the Grand County Clerk/Auditor, with each business license application and renewal signed by an authorized representative for the Business which attests to the following:

A. The Business shall collect and pay the “combined sales and uses tax rate” for Grand County as established by the Utah Tax Commission and published at: <https://tax.utah.gov/sales/rates>, as may be amended by state and local law, plus additional sales and uses taxes, which taxes are in addition to any other taxes including those taxes listed below, as applicable for the particularized business use, including, but not limited to:

1. OHV rental tax on all short-term rentals of off-highway vehicles and recreational vehicles at the rate of 7%, pursuant to Grand County Ordinance No. 641 (2021) and Utah Code § 59-12-603(1)(a)(ii);
2. Motor vehicle rental tax on all short-term leases and rentals not exceeding 30 days at the rate of 2.5% of the price paid or charged, pursuant to Utah Code § 59-12-1201;
3. Motor vehicle rental tax on all short-term rentals, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement, at the rate of 7%, pursuant to Grand County Ordinance No. 641 (2021) and Utah Code § 59-12-603(1)(a)(i)(A) and (B); and
4. State and local transient room tax established by the Utah Tax Commission and published at: <https://tax.utah.gov/salestax/rate/22q1other.pdf>, which combined rate as of January 1, 2022 is 4.57%, as may be amended by state and local law.

B. As set forth in Utah Tax Commission Publication 69, the Business shall pay sales and use tax on the use of any personal property used or consumed during a tour or other guided service, including food, equipment, and vehicles, including mountain bikes, motor vehicles, and ATVs, which sales and use tax shall be applied to the price of the entire tour package if the Business cannot separately determine the cost of the personal property used or consumed;

C. The Business understands that the County provides the sales tax rate for the Business’ convenience only; it is the responsibility of the Business to know, collect, and pay the applicable sales tax as required by the Utah Sales and Use Tax Act; and

D. The Business understands that the Business and its owners shall be subject to civil and criminal penalties for failure to comply with the Utah Sales and Use Tax Act, and

corresponding Grand County Ordinances enacting or imposing permissible sales and uses taxes.

5.01.050 Term; Renewal; Reapplication

A. *Term.* Licenses issued under this Chapter shall be valid upon approval until January 31 of the year following issuance. All license fees provided in this Chapter shall be paid annually in advance by the Licensee to the office of the County Clerk upon application and on or before January 31 of each year. No license fee or any part thereof shall be refunded for any reason whatsoever after the license has been granted or issued.

B. *Renewal.*

1. On or before January 1 each year, the office of County Clerk shall send the applicable business license renewal application to each Licensee which shall state the amount of the license fee imposed for the year. The renewal application shall be returned by the Licensee to the office of the County Clerk according to the renewal application directions.

2. Renewal of licenses is not of right and no claim of vested rights shall inure to a Licensee who has received licenses in past years.

C. *Reapplication.* A new business license is required where the Business moves its Principal Office Address or desires to add uses to their business license, in which event the Business shall submit a new business license application to the office of the County Clerk with the licensing fee established for new applications in the Grand County Consolidated Fee Schedule.

5.01.070 License fees

License fees shall be established by the Grand County Consolidated Fee Schedule, prorated on a quarterly basis for applications submitted after Quarter 1 of the effective licensing year, and paid prior to issuance of any License by the County; provided, however, that Home Businesses, as defined hereunder, are exempt from the license fee pursuant to Utah Statute § 17-53-216, as amended.

5.01.080 License application, general

A. All applications for business licenses shall be submitted to the office of the County Clerk on forms provided for that purpose with the accompanying license fee required by the Grand County Consolidated Fee Ordinance.

B. Submission of a business license application does not constitute approval.

C. The general business license required by this Title is in addition to all other approvals, licenses and permits required by other County ordinances, or state or federal law.

5.01.090 Contents of application

A. All applications for any type of business license, including renewal applications, shall include:

1. Name and contact information of the Business;
2. Name and contact information for the Responsible Person for the Business,
3. Nature of the Business and Description of Business Use;
4. Principal Office Address;
5. Mailing address, if different;
6. Physical address, if different;
7. Sales and Use Tax License Number (or AirBnB/VRBO Account Number, or similar equivalent);
8. Sales and Use Tax Affidavit;
9. Certificate of Existence from the Division of Corporations;
10. Statement of Authority proving signatory authority for the Business;
11. For ATV Businesses, as required by Chapter 5.02:
 - i. ATV Equipment Affidavit;
 - ii. Identification of Business Activity: Rentals, Tours, or Both
12. For Overnight Accommodation Businesses, as required by Chapter 5.03:
 - i. Physical address and Parcel No. for each Parcel of Real Property;
 - ii. Number of rooms used for Short Term Accommodations;
13. Signatures of County officials and designees, including:
 - i. Building Inspector;
 - ii. Planning and Zoning;
 - iii. Fire Department; and
 - iv. Sanitarian/Health Department;
14. Fee(s) established by the Grand County Consolidated Fee Schedule, prorated on a quarterly basis for applications submitted after Quarter 1 (January-March); and
15. Additional documentation as the County may reasonably require.

5.01.100 Display of license

Every License granted under this Chapter shall be displayed in a prominent place and shall be available for inspection by any official or officer of Grand County. Every Licensee not having a fixed Place of Business shall carry such license, or a copy thereof, with them at all times while carrying on their Business and shall produce the License for inspection when requested to do so by any person.

5.01.110 Inspection

A. Prior to issuance of a new License required hereunder, the applicant shall permit inspections to be made of the prospective Principal Office and Place of Business, if

different, by the appropriate department of the county or other governmental agency to ensure compliance with zoning, fire, health and safety codes. No license shall be granted without the approval of all such required inspections.

B. Licensed Places of Businesses may be inspected periodically by departments of the county for compliance with License conditions, law or policy, and/or zoning, fire, health and safety codes and orders.

C. Written notice of violation shall be given by the inspecting agent of the County to a Licensee upon the finding of any violation, which notice shall provide for a reasonable period not to exceed thirty (30) days in which to cure such violations. If a Licensee fails to cure such violations, the County may pursue all remedies available to it under law, including those civil and criminal penalties specifically set forth in Chapter 5.04.

5.01.120 Compliance with Law

Every Licensee and other Person doing Business in Grand County shall be in compliance with all local, state, and federal law and regulations including this Chapter. Non-compliance shall be a violation of this Title.

5.01.130 Transferability

A. Except as expressly permitted in this Section 5.01.120.D, no License granted under this Title 5 may be assigned, transferred, or sold by the Licensee nor used for any purpose or Business other than that for which said License was issued.

B. A License issued for a particular location may not be transferred for use to another location.

C. Any License transferred or used in violation of this Section shall be deemed revoked.

D. An ATV Business may transfer its Business License upon the following conditions:

1. The ATV Business is in compliance with local, state, and federal law and all conditions of its license;
2. The ATV Business terminates its existing Business License simultaneously with approval of the new ATV Business License;
3. The new applicant complies with the requirements of this Title; and
4. The County approves the new ATV Business License hereunder.

5.01.140 License issuance or denial

A. Within thirty (30) days of the County Clerk's receipt of a complete application that includes all of the items required by Section 5.01.080, the office of the County Clerk shall either a) issue the license requested, with or without conditions; or b) deny the license in writing. If the County Clerk determines the application is incomplete, the County Clerk shall provide written notice to the Licensee, and shall reconsider the complete application once submitted. Nothing herein shall limit the County Clerk from conferring with the Commission Administrator or County Attorney when reviewing applications.

B. An application submitted hereunder may be denied if:

1. The Applicant has:
 - i. Obtained a license by fraud, misrepresentation, or deceit;
 - ii. Failed to pay personal property or real property taxes or other required taxes or fees imposed by the County, including prior licensing fees;
 - iii. Violated the laws of the state of Utah, the United States, or Grand County;
 - iv. Failed to comply with the conditions or requirements of a conditional use permit; or
 - v. Failed to comply with the terms of any agreement with the County, including a development agreement or approval;
2. For conditional uses, reasonable conditions cannot be imposed to substantially mitigate the reasonably anticipated detrimental effects of the proposed use or reasonable conditions cannot be imposed to achieve compliance.

5.01.150 Revocation

A. The County Clerk or County Commission may revoke a License issued hereunder if the Licensee has:

1. Obtained a license by fraud, misrepresentation, or deceit;
2. Failed to pay license fees or other fees imposed by the County within thirty (30) days of their due date;
3. Failed to pay personal or real property taxes or other required taxes imposed by the County, including prior licensing fees, within thirty (30) days of their due date;
4. Violated the laws of Grand County, the State of Utah, or the United States;
5. Failed to comply with the conditions or requirements of the License or a conditional use permit; or
6. Failed to comply with the terms of any agreement with the County, including a development agreement or approval.

5.01.160 Appeal

An applicant may appeal a revocation or denial of a License issued under this Chapter by submission of a written request for administrative hearing pursuant to Chapter 1.16 of the Grand County General Ordinances, as amended, within thirty (30) days of the County's written decision.

Chapter 5.02

ALL TERRAIN VEHICLES\

Sections:

- 5.02.010 Purpose
- 5.02.020 Maximum Number of ATV Business Licenses
- 5.02.030 ATV Equipment Affidavit

5.02.010 Purpose

With this Chapter 5.02, the County’s primary purpose is to protect and preserve its residential areas and Community Zones from avoidable noise impacts caused by street-legal ATVs which create Excessive or Unusual Noise. The County’s secondary purpose is to balance the natural quiet of the surrounding desert landscape with its world-class recreation economy that depends on a variety of users and recreational experiences including mountain bikers, motorized Jeep/4x4 users, hikers, equestrians, hunters, boaters, climbers, dirt bikers, motorcyclists, bird watchers, road bikers, and adventure athletes such as basejumpers and slackliners.

5.02.020 Maximum Number of ATV Business Licenses

The office of the County Clerk may issue no more than three (3) Business Licenses to ATV Rental Businesses and four (4) additional Business Licenses to ATV Outfitter and Guide Service Businesses.

5.02.030 ATV Equipment Affidavit

ATV Businesses shall submit an ATV Equipment Affidavit signed by an authorized representative for the ATV Business with their business license application and renewal which attests to the following:

- A. The ATV Business shall not alter the OEM mufflers on any ATVs in their ATV Fleet in any way which increases the volume of the machine.
- B. All ATVs sold, rented, or driven by an ATV Business (or their owners, agents, and guides) shall not exceed the maximum sound pressure levels established in Title 11 of the Grand County General Ordinances.
- C. The ATV Business shall require each individual renting an ATV in their ATV Fleet independent of a guided tour to complete the off-highway vehicle safety education and training program required by Utah Statute § 41-22-31, as amended, concerning respectful, sustainable, and on-trail off-highway vehicle operation, and respect for communities affected by off-highway vehicle operation.

Chapter 5.03

OVERNIGHT ACCOMMODATIONS

- 5.03.010 General Regulations for Overnight Accommodation
- 5.03.010 General Regulations for Overnight Accommodations

A. *Notification.* Each Overnight Accommodation Business shall post a laminated 8.5x14” (or larger) sign in a form provided by the County in a conspicuous location near each primary ingress and egress which summarizes the County’s Noise Pollution Ordinance; states that the Ordinance is strictly enforced; and requests guests operate their ATVs in a manner which reduces noise in residential areas and on public lands, including driving the speed limit.

Chapter 5.04

ALCOHOLIC BEVERAGES

Sections:

5.04.010 Local Consent required

5.04.020 Compliance with Law

5.04.010 Local Consent required

It is unlawful for any Person to knowingly permit or allow customers, guests, or any other person to possess Alcoholic Beverages upon which the seal has been broken, or to consume Alcoholic Beverages at such Place of Business, including a Special Event held in the unincorporated County, without first obtaining a Local Consent under this Chapter on forms provided by the County Clerk and/or Utah Department of Alcoholic Beverage Control (“DABC”) for that purpose with the accompanying Local Consent fee, as applicable.

5.04.020 Compliance with Law

Every Licensee and other Person doing Business in Grand County shall be in compliance with all local, state, and federal law and regulations relating to the sale, manufacture, possession, keeping, giving, storing and transporting of Alcoholic Beverages, as applicable, and any other relevant health and safety codes and orders. Non-compliance shall be a violation of this Title.

Chapter 5.05

PENALTIES-VIOLATIONS

Sections:

5.05.010 Civil and Criminal Penalties

5.05.020 Civil Fines - Administrative Review and Appeal

5.05.010 Penalties-Violation

Violations of any provision of this Title 5 may be punishable by civil and criminal penalties, including but not limited to: i) Civil Fines, as defined in Chapter 1.04 of the Grand County General Ordinances, as amended, in the amounts set forth in the Grand County Consolidated Fee Schedule or \$100 per violation per day, whichever is greater; ii) revocation or suspension of a business license; and/or iii) criminal citation of a class B misdemeanor upon conviction thereof.

5.05.020 Civil Fines - Administrative Review and Appeal

All Civil Fines provided for in this section shall be in addition to the criminal penalties available to the County and shall be enforced as provided in Chapter 1.16 of the Grand County General Ordinances.