

ORDINANCE 19-12

AN ORDINANCE AMENDING TITLE 8 SECTION 715 OF RESIDENTIAL SOLICITATION APPEALS

WHEREAS, the City Council of the City of North Logan, Utah, adopted and passed the Code of Revised Ordinance of the City of North Logan on March 16, 1989, which Code was published and effective on March 20, 1989; and

WHEREAS, said Code includes Title 8 Section 703 Definitions and Section 715 Appeal, both associated with denial, suspension or revocation of residential solicitation license which section the City Council has deemed necessary to amend.

NOW, THEREFORE, the City Council of the City of North Logan, Utah hereby adopts, passes and publishes the following:

BE IT ORDAINED by the City Council of the City of North Logan, Cache County, and State of Utah as follows (highlighted portions added, crossed through items deleted):

SECTION I: Title 8, Section 703 is hereby modified as follows:

- A. *(no change)*
- B. "Appeals Officer" means the ~~City Council~~ Mayor or the Mayor's designee of the City responsible for receiving the information from the City and Appellant regarding the denial or suspension of a Certificate and issuing a decision as required by this Chapter.
- C. through M. *(no change)*
- N. "Disqualifying Status" means 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: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind;
 - 2. Criminal charges currently pending against the Applicant or Registered Solicitor for: (i) felony homicide, (ii) physically abusing, sexually abusing, or exploiting a minor, (iii) the sale or distribution of controlled substances, or (iv) sexual assault of any kind;
 - 3. The Applicant or Registered Solicitor has been Criminally Convicted of a felony within the last ten (10) years;
 - 4. The Applicant or Registered Solicitor has been incarcerated in a federal or state prison within the past five (5) years;
 - 5. The Applicant or Registered Solicitor has been Criminally Convicted of a misdemeanor within the past (5) years involving a crime of: (i) moral turpitude or (ii) violent or aggravated conduct involving persons or property;
 - 6. A Final Civil Judgment been entered against the Applicant or Registered Solicitor within the last five (5) years indicating that: (i) the Applicant or Registered Solicitor had either engaged in fraud, or intentional misrepresentation, or (ii) that a debt of the Applicant or Registered Solicitor was non-dischargeable in bankruptcy pursuant to 11 U.S.C. § 523(a)(2), (a)(4), (a)(6), or (a)(19);
 - 7. The Applicant or Registered Solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to tracking device;
 - 8. The Applicant or Registered Solicitor has an outstanding arrest warrant from any jurisdiction; or

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9. The Applicant or Registered Solicitor is currently subject to a protective order **or civil stalking injunction** based on physical or sexual abuse issued by a court or competent jurisdiction.
10. The Applicant is an individual who is listed as a sex offender on the U.S. Department of Justice National Sex Offender Public Website (currently found at <http://www.nsopw.gov>); or
11. The Applicant or Registered Solicitor **has obtained or attempted to obtain a registration or a Certificate by misrepresentation.**

SECTION II: Title 8, Section 715 is hereby modified as follows:

8-715 Appeal. An applicant or Registered Solicitor whose Certificate has been denied or suspended shall have the right to appeal to the ~~City Council~~ **Mayor** or ~~its~~ **the Mayor's** designee. Any appeal must be submitted by either the Applicant, the Responsible Person or Entity, or legal counsel for either who: (a) documents the relationship with the Applicant or Responsible Person or Entity; or (b) is licensed or authorized by the State of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

- A. Any appeal must be Submitted in Writing to the City 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.
- B. Upon request of the Applicant or Registered Solicitor, within one business day, the City will make available any information upon which it relied in making the determination to either deny or suspend the Certificate.
- C. 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 the City, Applicant or Registered Solicitor. Any additional information submitted by any party 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.
- D. 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 Section 8-715.C, the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
 1. 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.
 2. 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.
 3. 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.
- E. After the ruling of the Appeals Officer, the Applicant or Solicitor is deemed to have exhausted all administrative remedies with the City.

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~~F. Nothing herein shall impede or interfere with the Applicant's, Solicitor's, or City's right to seek relief in a court of competent jurisdiction.~~

SECTION III: CONFLICT. To the extent of any conflict between this ordinance and any other North Logan City ordinance(s) or regulation(s), the provisions of this Ordinance shall be controlling.

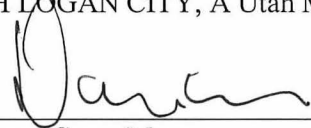
SECTION IV: SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

SECTION V: EFFECTIVE DATE. In the opinion of the City Council of North Logan, it is necessary that this ordinance take effect immediately; therefore, this Ordinance shall take effect immediately upon its passage and first posting as provided by law.

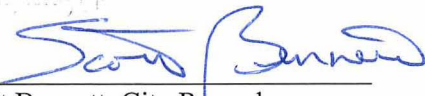
ADOPTED AND PASSED by the City Council of the City of North Logan, Utah, this 18 th day of September, 2019.

NORTH LOGAN CITY, A Utah Municipal Corporation

By


Damon Cann, Mayor

ATTEST:


Scott Bennett, City Recorder

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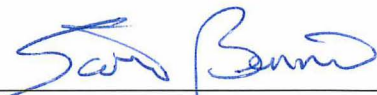
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CERTIFICATE OF DUE POSTING

I, SCOTT BENNETT, City Recorder of North Logan, Utah, hereby certify that I, on the 19 th day of September, 2019, in the City of North Logan, Cache County, State of Utah, posted the foregoing Ordinance No. 19-12 in a likely manner, a copy of which is hereto attached, in each of three public places in the said City of North Logan, to-wit:

1. North Logan City Offices, 2076 North 1200 East
2. North Logan City Library, 475 East 2500 North
3. North Park Police Department, 575 East 2500 North

WITNESS my hand this 19 th day of September, 2019.



Scott Bennett, City Recorder