

ORDINANCE NO. 18-09

ROLL CALL

VOTING	YES	NO
MAYOR JOE L THOMAS <i>(votes only in case of tie)</i>	Absent	
G. WAYNE ANDERSEN <i>Councilmember</i>	X	
ROD DART <i>Councilmember</i>	X	
RICHARD M. DAVIS <i>Councilmember</i>	X	
STEVE LEIFSON <i>Councilmember</i>	X	
JENS P. NIELSON <i>Councilmember</i>	X	

I MOVE this ordinance be adopted: Councilman Rod Dart

I SECOND the foregoing motion Councilman Steven M. Leifson

ORDINANCE No. 18-09

**AN ORDINANCE UPDATING THE MUNICIPAL CODE BASED ON
THE INDIVIDUAL RESPONSIBILITIES BETWEEN THE CITY
RECORDER AND THE CITY FINANCE DIRECTOR**

WHEREAS, Spanish Fork City has split the offices of City Recorder and City Finance Director pursuant to the provisions of Utah Code Annotated §10-6-157; and

WHEREAS, at the time the division of the responsibilities between the Recorder and Finance Director took place, the Municipal Code with respect to those specific sections was amended; and

WHEREAS, other provisions of the Municipal Code refer to the responsibilities of the Recorder and/or Finance Director, but were not amended at that time, but have since been

discovered; and

WHEREAS, in order for the Municipal Code to be current and updated it is necessary to amend other sections of the Code to reflect the division of responsibilities between the City Recorder and the Finance Director;

NOW THEREFORE, be it hereby ordained and enacted by the Spanish Fork City Council as follows:

I.

Spanish Fork Municipal Code Section 2.20.110 is hereby repealed

II.

Spanish Fork City Municipal Code Section 2.08.090 is hereby amended as follows:

2.08.090 Audit of Accounts - Report.

The City Council shall require an annual audit of the accounts of all officers of the City having the care, management, collection, or disbursement of money belonging to the City or appropriated by law or otherwise for the use and benefit of the City. The annual audit shall be performed by or under the direction of a competent public account, not an officer of the City, and shall be prepared within 180 days following the close of the fiscal year. Copies of all audit reports made pursuant to this section shall be filed in the office of the City Finance Director and with the State Auditors Office, and may be used in addition to or in lieu of the annual report of the City Finance Director as may be required by the City Council.

III.

Spanish Fork City Municipal Code Section 3.16.020 is hereby amended as follows:

3.16.020 Maintenance.

The City Council shall create and maintain said special improvement guaranty fund by

appropriation from the general fund or by the levy of a tax not to exceed one mill in any one year or by the issuance of general obligation bonds or by appropriation from such other sources as may be determined by the City Council to provide the money necessary for that purpose. Said funds shall be held by the City Treasurer and shall be kept by him or her separate and apart from all other funds held by him or her. Payments out of said funds shall be made only by checks or warrants drawn by the City Finance Director.

IV.

Spanish Fork City Municipal Code Section 3.16.030 is hereby amended as follows:

3.16.030 Interest and Penalties - Deposit in Fund.

All excess charges and penalties collected by the City Treasurer for the benefit of or credit of any special improvement fund and remaining on hand after all of the bonds or warrants, together with interest thereon, drawn against said special improvement funds have been fully paid and cancelled, shall be transferred by the City Finance Director to the said special improvement guaranty fund.

V.

Spanish Fork City Municipal Code Section 3.16.040 is hereby amended as follows:

3.16.040 Payment of Bonds or Warrants.

When any bond, warrant, or coupon drawn against any special improvement fund is presented to the City Treasurer for payment and there is not a sufficient amount in said special improvement fund against which it is drawn to pay the same, unless otherwise requested by the holder, payment therefore shall be made by warrant drawn upon the City Finance Director against the special improvement guaranty fund.

VI.

Spanish Fork City Municipal Code Section 3.16.060 is hereby amended as follows:

3.16.060 Finance Director to Issue Warrants.

*Kim,
Could you ask the
Mayor to sign this?
It was approved in
city council 2 weeks
ago.
Thanks,
Chris*

Interest at a rate not to exceed eight percent (8%) per annum may be
Director against said fund to meet any financial liabilities accruing
ing its annual tax levy, the City Council shall provide for the
her resources of the fund to pay warrants so issued and
not to exceed one mill in any one year.

VII.

Spanish Fork City Municipal Code Section 5.04.030 is hereby amended as follows:

Community Development Director as Assessor and Collector.

The Community Development Director, or designee, is designated and appointed as ex officio assessor of business licenses for the City. Upon receipt of any application for a business license, the Community Development Director, or designee, shall assess the amount due thereon and shall collect all license fees based upon the rates established by ordinance. Violations shall be processed and treated just as any other criminal violation by report and referral to the appropriate prosecuting office.

VIII.

Spanish Fork City Municipal Code Section 5.04.040 is hereby amended as follows:

5.04.040 Payment Dates.

All licenses shall be payable before each calendar year, in advance, shall commence from the first day of January of each year and shall expire on the 31st day of December of each year.

All license fees shall be due the first day of each calendar year and shall become delinquent if not paid by February 1st of each year. The proceeds of all licenses shall be remitted by the Community Development Director, or designee, to the City Treasurer.

IX.

Spanish Fork City Municipal Code Section 5.04.050 (B) is hereby amended as follows:

5.04.050 Applications.

B. Applicants for licenses to conduct business as an itinerant merchant shall provide the following information to the Community Development Director, or designee;

1. [no change]
2. [no change]
3. [no change]
4. [no change]
5. [no change]
6. [no change]
7. [no change]
8. [no change]
9. [no change]
10. [no change]

X.

Spanish Fork City Municipal Code Section 5.04.070 is hereby amended as follows:

5.04.070 Certificate.

All certificates of license shall be signed by the Community Development Director, or designee, and shall contain the following information:

A. [no change]

B. [no change]

C. [no change]

D. [no change]

XI.

Spanish Fork City Municipal Code Section 5.08.010 is hereby amended as follows:

5.08.010 Defined - License Required.

An auctioneer as contemplated in this chapter is a person who conducts a public competitive sale of property by outcry to the highest bona fide bidder. An auctioneer's license shall cost \$50.00 per day. It is an infraction for any person to engage in the business of an auctioneer within the City without first procuring a business license to do so as provided in Chapter 5.04 of this title. Such auctioneer shall execute a bond to the City, with corporate surety, in the sum of \$1,000.00, conditional for the faithful observance of all laws and ordinances of the City and the honest performance of all duties required by ordinance, and the protection of all persons dealing with such auctioneer against all fraud, deception, and imposition, said bond to be approved by the City Council and filed with the Community Development Director, or designee.

XII.

Spanish Fork City Municipal Code Section 5.12.020 is hereby amended as follows:

5.12.020 Permit Required.

It shall be unlawful for any person to sell, offer to sell, or provide to the public any type of alcoholic beverage without first obtaining a permit to do so from the City. An applicant need not have a permit issued by the Department of Alcoholic Beverage Control, but shall be qualified

in all respects to obtain a State License from the Department of Alcoholic Beverage Control upon the issuance of a City license. All licensees shall comply with the Alcoholic Beverage Control Act, Utah Code Annotated §32a-1-101 et seq., as it may be from time to time be amended, and the rules and regulations promulgated thereunder by the Department of Alcoholic Beverage Control. An alcoholic beverage permit shall be in addition to the business license required under Title 5 of the Spanish Fork City Municipal Code. The permit granted herein shall expire on the 31st day of December of each year. A new permit is required each year. A new permit must be obtained within 30 days of the expiration of any prior permit.

Applications shall be made available at the City offices and permits may be issued by the Community Development Director's office upon a showing of meeting of all of the requirements set forth herein and the Alcoholic Beverage Control Act.

A permittee holding a Class A Permit (as defined in the next section) for off-premise consumption shall require any and all employees involved in the transaction of retail beer sales to obtain a beer handlers permit from the Utah County Health Department, complying with all of the ordinances, rules, and regulations promulgated by the Health Department for issuance of such permits. All employees of a permittee involved in the transaction of retail beer sales will be required to possess and wear a beer handlers permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person.

New employees of a permittee shall obtain a beer handlers permit within 30 day of hire. During this 30 day period, the employee may sell alcoholic beverages in accordance with the Utah Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, and the provisions of this Chapter.

The permittee is required to inform the Utah County Health Department of any employee possessing a beer handlers permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages. Permittees shall permit law enforcement officers and Utah County Health Department employees to conduct random beer handlers permit compliance checks on permittee's premises.

An employee possessing a beer handlers permit who is convicted of any law involving the sale of an alcoholic beverage is not only subject to the penalties in section 5.12.090 of this Chapter, but shall incur a suspension of the employee's beer handlers permit in accordance with the ordinances, rules, and regulations as adopted by the Utah County Health Department applicable to such permit.

XIII.

Spanish Fork City Municipal Code Section 5.12.060(A) is hereby amended as follows:

5.12.060 Revocation-Hearing Examiner.

A. Any permit issued hereunder may be revoked following notice and a hearing before the Hearing Examiner. The Community Development Director is hereby appointed to act as Hearing Examiner. Appeals from the decision of the Hearing Examiner shall be filed, in writing, within 10 days of the decision of the Hearing Examiner. A filing fee of \$150.00 shall accompany the notice of appeal. Appeals shall be heard before the City Council. Decisions by the City Council are final and non-appealable.

XIV.

Spanish Fork City Municipal Code Section 5.18.110 is hereby amended as follows:

5.18.110 Application Fee.

Each initial application shall be accompanied by a non-refundable filing fee in the amount of \$1,000.00, which shall be payable to Spanish Fork City and remitted to the City Finance Director.

XV.

Spanish Fork City Municipal Code Section 5.28.140 is hereby amended as follows:

5.28.140 License - Bond.

Each application for a sexually oriented businesses license shall post with the City Finance Director a cash bond in the amount of \$2,000.00. Any fines assessed against the business, officers, or managers for violations of City Ordinances shall be taken from this bond if not paid in cash within 10 days after the notice of the fine, unless an appeal is filed as provided by this Chapter. In the event that the funds are drawn against the cash bond to pay such fines the bond shall be replenished to \$2,000.00 within 15 days of the date of the notice against it. In the event that the bond is not replenished within the 15 days, the license granted by this Chapter shall automatically be suspended until such time as the bond is replenished.

XVI.

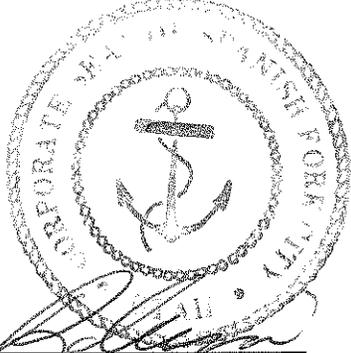
Spanish Fork City Municipal Code Section 5.28.400 is hereby amended as follows:

5.28.400 Violation - Penalty.

In addition to revocation or suspension of a license, as provided in this Chapter, each violation of this Chapter shall, upon citation by the Community Development Director, or designee, require the licensee to pay a civil penalty in the amount of \$500.00. Such fine shall be deducted from the cost bond posted pursuant to this Chapter, unless paid within 10 days of notice of the fine or final determination after any appeal. In addition to the civil fines provided in the

Chapter, the violation of any provision of this Chapter shall be a Class B Misdemeanor. Each day of violation shall be considered a separate offense.

DATED this 3rd day of November, 2009.



ATTEST:



Kimberly Robinson, City Recorder



G. Wayne Andersen, Mayor Pro Tem

Proof of Publication

THE SPANISH FORK PRESS, a weekly newspaper printed and published at Provo, Utah County and of general circulation therein; that the Notice, a copy of which is hereto attached, was printed and published in said paper

for 1 consecutive weeks,

the first publication on the 24th day

of December 2009

And the last on the 24th day

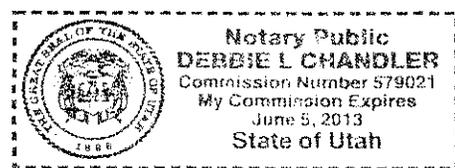
of December 2009

Justine Yarn

STATE OF UTAH, UTAH COUNTY>SS.....

PUBLIC NOTICE responsibilities for is available at the
ORDINANCE the City Recorder Spanish Fork City,
No. 18-09. The and Finance Director hereby repealing Spanish Fork
Spanish Fork City Council has adopted Municipal Code Section 2.20.110. Spanish Fork
ed an ordinance updating the Municipal Code regarding the individual of this ordinance
A complete copy
Published in the
Spanish Fork Press
December 24, 2009.
UPAXLP

RESIDENCE: SPANISH FORK, UT
MY COMMISSION EXPIRES 06/05/2013



Subscribed and sworn to before me this 28th day of December 2009

Debbie L Chandler
Notary Public