

ORDINANCE NO. 15-12

ROLL CALL

VOTING	YES	NO
G. WAYNE ANDERSEN <i>Mayor (votes only in case of tie)</i>		
ROD DART <i>Council member</i>	X	
RICHARD M. DAVIS <i>Council member</i>	X	
BRANDON B. GORDON <i>Council member</i>	X	
STEVE LEIFSON <i>Council member</i>	X	
KEIR A. SCUBES <i>Council member</i>	X	

I MOVE this ordinance be adopted: Council member Leifson

I SECOND the foregoing motion: Council member Gordon

ORDINANCE No. 15-12

AN ORDINANCE AMENDING THE BUSINESS LICENSE AND HOME OCCUPATION REGULATIONS

WHEREAS, Spanish Fork City has adopted an ordinance regulating business licenses,
as well as home occupation licenses; and

WHEREAS, minor amendments need to be made to those regulations from time to time
in order to remain efficient and charge appropriate amounts; and

WHEREAS, the business license division of the Community Development Department
has evaluated the basic administrative cost to issue licenses, which costs should be assessed in
the cost of a business license;

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

follows:

I.

Spanish Fork City Municipal Code §§5.04.010 through 5.04.140 are hereby amended

and §5.04.150 is hereby created as follows:

5.04.010 Unlawful to Transact Business Without License

It is a Class C misdemeanor for any person to engage in or carry on any business, trade, profession or calling within the City without first obtaining a business license when required by the ordinances of the City. Each separate business entity is required to have its own business license.

5.04.020 Definitions

- A. "Canvasser," "solicitor," "peddler," "hawker", or "huckster" means any individual whether or not a resident of the municipality, traveling either by foot, wagon, motor vehicle, or other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever, or carrying, conveying, or transporting meats, fish, vegetables, fruits, garden truck, farm products or provisions, whether or not payment and delivery are made simultaneously or whether payment is taken for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he or she is collecting advance payments on such sales, provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the municipality for the sole purpose of exhibiting samples and taking orders for future delivery.
- B. "Transient merchant," "itinerant merchant," or "itinerant vendor" is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether or not a resident of the municipality, who engages in a temporary business of selling and delivering goods, wares and merchandise within the municipality, and who, in furtherance of such purpose, does not conduct the activity substantially within a permanent building or structure but who does in furtherance of such purpose hire, lease, use or occupy a nonpermanent building or structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley or other place within the municipality, other than within a permanent building or structure, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.
- C. "Fireworks Merchant" shall mean any person, firm, corporation, or other entity whose primary and principal business is selling fireworks in accordance with the provisions of Utah Code Annotated §11-3-1 et seq.

5.04.030 License 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 business license fees based upon the rates established by ordinance.

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 January 15th of each year. The proceeds of all licenses shall be remitted by the Community Development Director to the City Treasurer.

5.04.050 Applications

- A. All applications for business licenses for businesses which shall be permanently located and conducted within Spanish Fork City on a long term basis shall specify:
 - 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 of where the business, calling, trade, or profession is to be carried on in any building or enclosure having such number;
 - 5. The application shall state such other matter or things required by ordinance or statute.
- B. Applicants for licenses to conduct business as an itinerant merchant shall provide the following information to the Community Development Director, or designee:
 - 1. The name of the applicant, and if the applicant is an employee or agent of a corporation, the name of the corporation;
 - 2. The address of the applicant, and if the applicant is an agent or employee of a corporation, the address of the corporation.
 - 3. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold;
 - 4. If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons;
 - 5. The length of time for which the applicant desires to engage in business within the municipality;
 - 6. The place or places within the municipality where the applicant proposes to carry on his or her business;
 - 7. A list of the other municipalities in which the applicant has engaged in business within the six-month period preceding the date of the application;
 - 8. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the State of Utah;
 - 9. A current and active sales tax number, having been issued by the State of Utah to the applicant to do business within the State of Utah.
 - 10. Any person or entity selling foods or food items must comply in all respects with the rules and regulations of the Utah State Board of Health and/or the Utah County Health Department.

5.04.060 Penalty for Late Payment

If any license fee is not paid within fifteen (15) days of the due date, a penalty of fifteen dollars (\$15.00) shall be added to the original amount thereof for each month the fee remains unpaid. No license shall issue until all penalties legally assessed have been paid in full. If the license has not been renewed within 30 days of the due date, the business shall be placed on an inactive list and shall be considered to be doing business without a license in violation of this chapter and is subject to the criminal penalties set forth in this chapter. Businesses placed on the inactive list must apply for a new business license and pay all fees associated with a new business license application.

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. The business name to whom such certificate has been issued.
- B. The amount paid to the city treasurer;

- C. The term of the license with the commencing date and the date of its expiration;
- D. The place where such business, calling, trade, or profession is to be carried on.

5.04.080 Display

- A. Every certificate of license issued under this section shall be posted by the licensee in a conspicuous place upon the wall of the building, room, or office of said place of business so that the same may be easily seen. 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. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of said business, then the licensee shall carry the license on his person ready to be displayed 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 is granted.
- B. A violation of any provision of this section is punishable as a Class C misdemeanor.

5.04.090 Transferability

No license granted or issued under this section shall be in any manner assignable or transferable. It shall not be deemed to authorize any person other than the therein named to do business or to authorize any other business, calling, trade, or profession than is therein named.

5.04.100 Revocation

Licenses issued under the provisions of this chapter may be revoked by action of the City Council because of failure upon the part of the licensee to comply with the conditions and requirements under which said license is granted or because of illegal activities thereunder.

No license shall be so revoked under the provisions of this chapter except after notice and hearing of the licensee or applicant, except as otherwise provided by ordinance. Notice shall be given by sending a copy of said notice by certified mail, return receipt requested, to the applicant at the address shown in the applicant's last application for a business license. It is the applicant's duty to maintain a current address at all times with the city office. Notice is deemed received if notice is sent to the last address on file with the city and is returned unclaimed, unknown, moved, or for any other reason identified by the postal service.

Said hearing shall be held not less than ten (10) nor more than twenty (20) days after receipt of the notice. The applicant may appear in person or may send a representative. The applicant has a right to be represented by counsel, but has no right to be appointed counsel.

5.04.110 Fee Schedule

- A. There is levied upon every business, location, trade, or calling of every person engaged in business in the City an annual license fee based upon the administrative cost to the City to issue a business license. The initial fee shall be forty dollars (\$40.00) and shall be subject to change based on changing costs, as estimated by the City Council in the annual budget. In addition to the business license fee, businesses requiring inspection(s) shall pay an inspection fee based on the cost for the City to conduct the inspection(s).
- B. Where the business is that of an itinerant merchant, the license fee shall be fifty dollars per day unless proceeds from the sale of any merchandise shall be returned to or used for the purpose of a charitable or otherwise non-taxed institution with permanent and substantial ties to the community. Such institutions shall include, but not be limited to, churches, scouting organizations, schools, local associations and service clubs. In the latter event, the license fee shall be five dollars (\$5.00) per day. The maximum license fee in any calendar year is three hundred dollars (\$300.00). Temporary sales or display of goods are allowed for a period not to exceed 120 calendar days. The license shall designate the dates the license is valid. An itinerant merchant license is subject to the following criteria:
 - 1. The nature, location, and manner of operation of the activity or event may not be on public property and does not constitute a health or safety hazard to the public.
 - 2. The merchant has permission from the property owner where the goods are to be sold and/or displayed. A copy of the lease or letter from the property owner granting permission shall

- 3. be submitted with the application for a business license.
 - 4. The goods or services sold and/or displayed are customarily and traditionally related to a seasonal activity, event, or holiday.
 - 5. The sales/display activity must be located in a commercial zoning district and the specific use must be consistent with other uses permitted in the zoning district.
 - 6. The use does not interfere with pedestrian access-ways, fire lanes, driveways, or traffic visibility.
 - 7. Parking on the property is adequate to serve any existing permanent uses and the proposed itinerant merchant use.
 - 8. No itinerant merchant license shall be issued or valid during the period of the Fiesta Days celebration
- C. The amount for a business license for a canvasser or a solicitor shall be \$100.00 per calendar year, unless the proceeds from the solicitation are only used for the benefit of a charitable organization with substantial ties to the community. Such institutions shall include, but not be limited to churches, scouting organizations, schools, service clubs, and similar charitable organizations. For such charitable organizations, the license fee shall be waived. No canvasser or solicitor license shall be valid during the period of the Fiesta Days celebration.
- D. Person(s) conducting, garage sales, yard sales, or activities relating to City authorized or sponsored events shall be exempt from the licensing requirements of this section, provided that any garage or yard sale shall not operate for more than three events of forty-eight hours or less within a twelve (12) month period at the same residence or street address, and shall be conducted by bona fide residents of the premises, selling personal belongings of such resident. Goods offered for sale shall not be placed over a public sidewalk or a public right-of-way unless a permit for the same has been obtained.
- E. The business license for a fireworks merchant shall be three hundred dollars (\$300.00) per year, which amount shall not be pro-rated for a partial year.
- F. Concession and booth permits for the Fiesta Days celebration shall be limited to the number established by the City Council. The cost of concession and booth permits shall be in the amounts set by the City Council. No person shall operate concessions or booths during the Fiesta Days celebration without a permit issued by the City. Any person violating the provisions of this paragraph is guilty of a class C misdemeanor.

5.04.120 Multiple Business Locations

Any person, company, firm, partnership, or corporation conducting business in more than one location shall obtain a business license and pay a fee for each location.

5.04.130 Multiple Licenses

Any person, business, corporation or other entity carrying on business within the City who is required to have any other type of license by local, state, or federal law shall be required to obtain a business license in addition to the other required license(s), including beer or alcohol license, federal firearm license, and/or other similar licenses.

5.04.140 Site Improvements

- A. All new businesses, or existing businesses changing locations, shall be required to install site improvements in compliance with the construction and development standards and comprehensive zoning ordinances of the City, to the extent possible given existing structures and site configurations, prior to receiving a business license. A new business license is required to show the new location. In the event of a changed location, there shall be no fee for that license.
- B. Inspections of the new location are required, together with payment of the inspection fee(s).
- C. Exceptions based on existing structures and site configurations shall be granted by the Development and Review Committee.

5.04.150 Inspections.

As a condition of the issuance, continuation, or renewal of a business license, an applicant shall permit inspections of the place of business or other activity to ensure compliance with all applicable zoning, building code, fire code, health, or safety regulations.

The cost of the inspection(s) fee shall be estimated by the City Council in the annual budget to reflect the cost to the City to conduct inspection(s).

II.

Spanish Fork Municipal Code §§5.40.030 and 040(A)(4) are hereby amended as follows:

5.40.030. Fees.

The base fee for a home occupation business license shall be based upon the administrative cost to the City to issue a home occupation business license. The initial fee shall be forty dollars (\$40.00) and shall be subject to change based on changing costs, as estimated by the City Council in the annual budget. In addition to the business license fee, businesses requiring inspection(s) shall pay an inspection fee based on the cost to the City to conduct the inspection(s). A safety and fire inspection are required for all businesses that have patrons entering the property. The license shall expire December 31st of each year. Licenses should be renewed by January 1st of each year. If not renewed by January 15th, a fifteen dollar (\$15.00) late fee, per month, shall also be paid in order to renew the license.

5.40.040. Conditions.

A. The following conditions must be met in order to obtain and keep a home occupation business license:

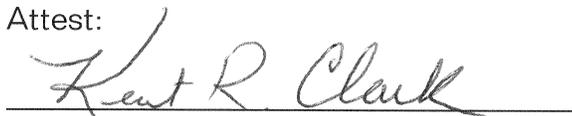
4. No more than two nonresident patrons are permitted to be at the dwelling at any one time by reason of the home occupation, except that daycares and preschools are permitted to have no more than eleven (11) patrons, including the provider's own children four years of age and younger.

III.

This Ordinance shall become effective 20 days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH, this 16th day of October, 2012.


G. WAYNE ANDERSEN, Mayor

Attest:

Kent R. Clark, City Recorder

