

# ORDINANCE No. 16-15

## ROLL CALL

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

I MOVE this ordinance be adopted: Council member Scoubes

I SECOND the foregoing motion: Council member Mendenhall

## ORDINANCE No. 16-15

### AN ORDINANCE AMENDING BUSINESS LICENSE REQUIREMENTS FOR ITENERANT MERCHANTS AND CHILD CARE HOME OCCUPATIONS AND ALLOWING FOR MORE MOBILE FOOD VENDOR LOCATIONS

WHEREAS, Spanish Fork City has adopted an ordinance regulating businesses and requiring business licenses; and

WHEREAS, the ordinance prohibits itinerant merchant licenses from being issued during Fiesta Days; and

WHEREAS, itinerant merchant locations only need to be restricted, not prohibited, during Fiesta Days; and

WHEREAS, the ordinance regulates child care providers in private homes, but is silent as to State of Utah requirements, which should be recognized and required; and

WHEREAS, mobile food vendors are permitted, but only on private property; and

WHEREAS, a number of downtown merchants have petitioned the Council to allow mobile food vendors on public streets in the downtown area in order to encourage foot traffic;

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

I.

Spanish Fork City Municipal Code §5.04.020 "Definitions" is hereby amended to add a definition for "Home Child Day Care" and amend "Transient Merchant" as follows:

**5.04.20 Definitions**

"Transient merchant," "itinerant merchant," or "itinerant vendor" means 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 for a period of time up to 180 days, 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.

"Home Child Day Care" means care provided to five or more unrelated children 0-13 years of age in lieu of care ordinarily provided by a parent, which care is for four or more hours per day at regularly scheduled times for direct or indirect compensation.

II.

Spanish Fork City Municipal Code §5.04.050(B) "Applications" 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. 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 or limited liability company, the address of the corporation or limited liability company;

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 property address within the municipality (which is required to be located in a commercial zoning district) where the applicant proposes to carry on his or her business;
7. A site plan detailing the location on the property where the merchant will conduct business;
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 Utah State Tax Commission 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.

### III.

Spanish Fork Municipal Code § 5.04.110 "Fee Schedule" is hereby amended to be "Fee Schedule and Conditions" and subparagraph (B) is amended and subparagraph (F)(8) is created as follows:

#### **5.04.110      Fee Schedule and Conditions**

- 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 180 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 be submitted with the application for a business license.
  3. The goods or services sold and/or displayed are customarily and traditionally related to a seasonal activity, event, or holiday.
  4. 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.
  5. The use does not interfere with pedestrian access-ways, fire lanes, driveways, or traffic visibility.
  6. Parking on the property is adequate to serve any existing permanent uses and the proposed itinerant merchant use.

7. No itinerant merchant license shall be valid within 2,000 feet of the perimeter of the parcel of property of a City sanctioned event, except as allowed in §5.04.110(8), including but not limited to the following events as determined by the Community Development Director, or designee:
    - a. Fiesta Days Celebration
    - b. Champions Challenge Rodeo
    - c. Harvest Moon Hurrah
    - d. Farmer's Market
    - e. Utah County Fair
    - f. Major athletic events as determined by the Recreation Director
  8. An applicant for an itinerant merchant license that will be valid during the period of a City sanctioned event as authorized in §5.04.110(7) must:
    - a. obtain a business license and inspection at least 30 days prior to the commencement of the authorized event; and
    - b. set up the business within one week of receiving a City license and continuously operate the business through the commencement of the sanctioned event; or
    - c. be located at least 2000 feet from the perimeter of the parcel of property where a sanctioned event is taking or will take place.
- F. A mobile food vendor business license shall be required for each mobile food truck, concession cart, concession trailer, or other mobile vending unit. The fee shall be one hundred twenty dollars (\$120.00) per year. A mobile food vendor license is subject to the following criteria:
8. Notwithstanding subparagraph (1), mobile food vendors are allowed to park in the public right-of-way along public streets between 100 South and 400 North and between 100 East and 100 West if:
    - a. It is part of an event sponsored by either the City or the Chamber of Commerce, provided that no such event may be held during Fiesta Days; and
    - b. No more than two mobile food vendors may be parked between intersections on the same side of the street; and
    - c. Food serving windows must face away from the street.

#### IV.

Spanish Fork Municipal §5.40.040 "Conditions" is hereby amended as follows:

##### **5.40.40      Conditions**

- A. The following conditions must be met in order to obtain and keep a home occupation business license:
  1. The home occupation must clearly be incidental to or secondary to the residential use of the lot. If housed in an accessory building, the building must meet the stricter of the conditions

of this chapter or the conditions and requirements for accessory buildings found in Spanish Fork Municipal Code §15.3.24.090(A).

2. The business must be conducted only by a resident or residents who reside on the site.
3. The business may occupy no more than 300 square feet if located in an accessory building, or the lesser of 300 square feet or 15% of the floor space of the residence if located in the residence. Exceptions include:
  - a. Swim lessons: if the swimming pool meets residential pool standards and is constructed primarily for the personal use of the occupants of the residence.
  - b. Home Child Day Care: as permitted by the Utah Department of Health, Bureau of Child Development (rules are available online at [www.rues.utah.gov](http://www.rues.utah.gov)).
4. No more than two nonresident patrons are permitted to be at the dwelling at any one time by reason of the home occupation. Exceptions include:
  - a. Preschools are permitted to have no more than eleven (11) patrons, including the provider's own children four years of age and younger.
  - b. Home Child Day Care in accordance with the requirements of the Utah Department of Health, Bureau of Child Development.
5. The business has no more than ten commercial delivery vehicles per week coming to the dwelling related to the home occupation, or such other number considered excessive in the sole discretion of the City Planner;
6. The business produces no offensive noise, vibrations, smoke, dust or other particulate matter, odors, heat, humidity, glare, electrical interference, or other objectionable effects beyond the boundaries of the property;
7. Vehicles or equipment may not be used for the primary purpose of advertising the business at the site of the home occupation. One name plate or identification sign no larger than 18" by 24" is allowed on site, so long as it is located within five feet of the building.
8. The business may not have exterior displays nor display goods which are visible from the outside, nor otherwise store materials, inventory, or equipment outdoors;
9. The business may not include such uses as automotive repair, commercial welding, body shop, spray painting, industrial uses, commercial stables or kennels, repair of major appliances such as: washers, refrigerators, ranges, etc., or other similar type uses which are not compatible with a residential neighborhood, as determined in the sole discretion of the Community Development Director.
10. No structural alterations to the building may be made to accommodate the business, which are not customary for a residential structure.
11. The business shall comply with all safety codes, including fire, building, plumbing, electrical, or others which may be applicable.
12. Swim lesson home occupations shall obtain approval from the Utah County Health Department for the proposed activity. Documentation from the Health Department is required prior to the issuance of a swim lesson home occupation business license.
13. Home Child Day Care occupations must obtain an appropriate State of Utah certificate or license and adhere to the rules and regulations of the Utah Department of Health, Bureau of Child Development (rules are available online at [www.rules.utah.gov](http://www.rules.utah.gov)).
14. No process can be used which is hazardous to the public health, safety, morals, or welfare.
15. If the applicant rents or leases the property where the home occupation is intended to be conducted, the applicant must provide a letter of consent from the property owner.
16. No visitors or traffic in conjunction with the home occupation shall be permitted between the hours of 9:00 p.m. and 7:00 a.m.
17. Adequate parking must be maintained for the home occupation. The area utilized and/or designated as required residential parking may not be used in connection with a home occupation. Excess parking by patrons in front of neighboring residences, as determined by

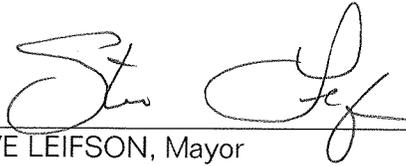
the Community Development Director, is grounds to revoke the home occupation business license.

- A. An applicant may appeal the imposition or denial of any of these conditions to the City Council by filing a written notice of appeal within ten days of the imposition or denial with the Community Development Director.

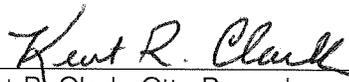
V.

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

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH, this 3rd day of November, 2015.

  
\_\_\_\_\_  
STEVE LEIFSON, Mayor

Attest:

  
\_\_\_\_\_  
Kent R. Clark, City Recorder

