CITY OF LOGAN, UTAH
ORDINANCE NO. 13-08

AN ORDINANCE AMENDING SECTIONS OF LOGAN MUNICIPAL CODE REGARDING ITINERANT OR TRANSIENT MERCHANTS, AND MOBILE FOOD VENDORS

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances as are necessary and proper to provide for the safety, promote the prosperity, improve the peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city; and

WHEREAS, pursuant to Utah Code § 10-1-203, a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance; and

WHEREAS, the City Council has determined that the following ordinance is in the City’s best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

Chapter 5.18
ITINERANT OR TRANSIENT MERCHANTS

5.18.010: DEFINITIONS:

In addition to the definitions set forth in section 5.02.020 of this title, the following words and phrases used in this chapter shall have the meanings prescribed in this chapter:

ITINERANT OR TRANSIENT MERCHANT: Any person who offers for sale at wholesale or retail any goods, wares or merchandise in or from any hotel, stall, tent, building, structure, stand, field, corner or other place in the city and who shall not occupy the place for the purpose of conducting a permanent business thereon or therein shall be deemed an itinerant or transient merchant.

TEMPORARY MERCHANT OR VENDOR: The conduct of business lasting for a period of no more than ten (10) days.

LONG TERM MERCHANT OR VENDOR: The conduct of business lasting for a period of time more than 10 days but less than 120 days.

5.18.020: ITINERANT OR TRANSIENT MERCHANT LICENSE REQUIRED:

It is unlawful for any person to conduct the business of an itinerant or transient merchant without first securing a license for each place to be so operated. The licensee shall
conspicuously display such license so that the same is plainly visible to the public. The division shall collect a license fee from each itinerant or transient merchant as set forth in the schedule of fees adopted by the municipal council.

5.18.030: APPLICATIONS; CERTIFICATE OF LICENSE; TERM:

A. All applications for a license under this chapter shall be made to and upon forms provided by the division, shall require that the applicant have a current state sales tax number and written permission from the owner of the property where the itinerant or transient merchant is to do business, and shall have written permission allowing the applicant use of toilet facilities within 300 feet of the proposed business location, signed by the property owner.

B. A complete application for a license shall be submitted at least 15 days prior to the date of operation. Incomplete or late applications may be rejected. Applicant revisions or modifications to the original application may extend the date of approval.

C. All applicants for an itinerant or transient merchant license shall submit a BCI Background Check as defined in Section 5.31.030.

D. Upon the granting of a license, the division shall issue a certificate of a temporary business license signed by the director. The certificate license shall show the name of the licensee, the business or occupation to be carried on thereunder, the place where the licensed business is to be carried on if at a fixed place, and the date of expiration of such license.

E. All licenses and certificates of license issued pursuant to this chapter shall expire as follows:

1. The license and/or certificate for an itinerant or transient temporary merchant or vendor shall expire one hundred eighty (180) ten (10) days after the date of issuance.

2. The license and/or certificate for a long term merchant or vendor shall expire one hundred twenty (120) days after the date of issuance.

5.18.040: RESPONSIBLE PARTY IDENTIFICATION:

Each applicant, whether a partnership, sole proprietorship or corporation, shall designate an individual for whom the business shall be responsible, and this individual shall:

A. Furnish the division with two (2) recent photographs, one of which shall be affixed to the certificate issued to the licensee and the other shall be retained in the files and records of the division;

B. Sign the registration record kept by the director; and
C. Provide valid driver's license number, date of birth and vehicle identification information.

5.18.050: ITINERANT OR TRANSIENT MERCHANT CONDITIONS AND REQUIREMENTS; NUMBER OF ITINERANT OR TRANSIENT MERCHANTS PERMITTED ON A PROPERTY:

Each itinerant or transient merchant shall abide by the following conditions and requirements:

A. An itinerant or transient merchant may operate between Merchandise may be sold, offered for sale or displayed for sale from an itinerant or transient merchant between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. On a temporary basis, extended hours may be approved by the Director of Community Development, upon application by the merchant showing substantial justification why extended hours on a temporary basis is are appropriate.

B. Each applicant for a license or renewal under this section shall submit, with such application, evidence of insurance as set forth in Logan Municipal Code Section 5.04.040.

C. The applicant for a license or renewal under this section shall submit written permission from the private property owner.

D. Each itinerant or transient merchant shall be limited to a period of not more than one hundred twenty (120) consecutive days on any property or parcel of land within a twelve (12) month period. Within any twelve (12) month period no more than one itinerant or transient merchant shall be permitted on any one site or parcel of real property.

D. An itinerant or transient merchant shall not operate for more than one hundred eighty (180) consecutive days on a property or parcel of land within a twelve (12) month period of time. An itinerant or transient merchant shall obtain a new temporary business license for a different property or parcel.

E. For parcels or properties less than one (1) acre in size, only one itinerant or transient merchant shall be permitted on that site or parcel at any one time. For parcels or properties larger than one (1) acre in size, one itinerant or transient merchant for every 250' of lineal public street frontage shall be permitted at any one time.

F. All aspects of the itinerant or transient merchant shall be temporary in nature with no permanent facilities constructed on site. No overnight parking or outdoor storage shall be allowed.

G. An itinerant or transient merchant selling, offering to sell or displaying to sale any retail merchandise on private property shall obtain a separate license for each individual private property location.
An itinerant or transient merchant proposing to operate on private property shall only be permitted in the Airport, Commercial, Commercial Services, Gateway, Industrial, Mixed Use or Town Center zoning districts as per the Logan Land Development Code and according to the following:

1. Itinerant or transient merchants are not permitted within the historic downtown area (200 North to 100 South and 100 East to 100 West) unless associated with a special event licensed by Logan City; and

2. An itinerant or transient merchant shall not be located on vacant or undeveloped property.

5.18.060: REVIEW AND APPROVAL PROCESS:

A. Applications shall be subject to review by code authorities, including those for public works, planning, zoning, building, fire, police, health, and others as required for the product, vendor or special event;

B. Approvals shall be based on a combination of code compliance in all applicable areas;

C. The applicant must obtain and maintain proper business and sales tax registration for all aspects of the operation prior to operating;

D. Approvals shall be based on any other factors or circumstances review authorities consider necessary to protect the public and enhance the community, such as:

   1. Pedestrian traffic and site compatibility with proposed operation; and

   2. Ability of the applicant to manage the operation and maintain compliance with all laws and local codes.

E. Based on the recommendations from the different reviewing entities, the license administrator may issue the license with any operational limitations specified, which shall specify the operational limitations as may be required.

Chapter 5.20
MOBILE FOOD VENDOR LICENSES

5.20.010: DEFINITIONS:

In addition to the definitions set forth in section 5.02.020 of this title, the following words and phrases used in this chapter shall have the meanings prescribed in this chapter:

MOBILE FOOD VENDOR: The conduct of business from a licensed and operable motor vehicle from which food or beverages are sold or offered for sale on a temporary basis.
5.20.020: MOBILE FOOD VENDOR LICENSE REQUIRED:

It is unlawful for any person to conduct the business of a mobile food vendor without first securing a license for each place to be so operated. The licensee shall conspicuously display such license so that the same is plainly visible to the public. The division shall collect a license fee from each mobile food vendor as set forth in the schedule of fees adopted by the municipal council.

5.20.030: APPLICATIONS; CERTIFICATE OF LICENSE; TERM:

A. All applications for a license under this chapter shall be made to and upon forms provided by the division, and shall require that the applicant have a current state sales tax number.

B. A complete application for a license shall be submitted at least 15 days prior to the date of operation. Incomplete or late applications may be rejected. Applicant revisions or modifications to the original application may extend the date of approval.

C. All applicants for a license to operate a mobile food vendor shall submit a BCI Background Check as defined in Section 5.31.030.

D. Upon approval of the mobile food vendor application, the granting of a license, the division shall issue a certificate of temporary business license signed by the director. The license certificate shall show the name of the licensee, the business or occupation to be carried on thereunder, the place where the licensed business is to be carried on if at a fixed place, and the date of expiration of such license.

5.20.040: RESPONSIBLE PARTY IDENTIFICATION:

Each applicant, whether a partnership, sole proprietorship, or other entity shall designate an individual that shall be responsible for the business, and this individual shall:

A. Furnish the division with two (2) recent photographs, one of which shall be affixed to the certificate issued to the licensee and the other shall be retained in the files and records of the division;

B. Sign the registration record kept by the director; and

C. Provide valid driver's license number, date of birth and vehicle identification information.

5.20.050: MOBILE FOOD VENDOR CONDITIONS AND REQUIREMENTS:

Each mobile food vendor shall abide by the following conditions and requirements:

A. For those mobile food vendors operating within the public right of way, the motor vehicle shall have a clearly audible backup warning device that activates whenever the vehicle is shifted into reverse gear and shall have a flashing yellow
beacon on the roof of the vehicle that is visible from all sides of the vehicle and is activated whenever merchandise is being sold, offered for sale or displayed for sale.

B. The motor vehicle shall be inspected and approved by the Bear River Health Department on an annual basis.

C. The motor vehicle shall be inspected by the City for safety, appearance, signage and accessibility.

D. A mobile food vendor may operate food or beverages may only be sold or offered for sale between the hours of seven o’clock (7:00) A.M. and ten o’clock (10:00) P.M. On a temporary basis, extended hours may be approved by the Director of Community Development, upon application by the merchant showing substantial justification why extended hours on a temporary basis are appropriate.

E. Food or beverages shall not be sold or offered for sale on public streets where the speed limit exceeds twenty five (25) miles per hour.

F. Food or beverages shall only be sold or offered for sale when the vehicle is completely stopped and lawfully parked, and only from the rear or side of the vehicle nearest to the curb or edge of the roadway on the right side of the vehicle. The operator of the mobile food vendor shall not sell to any person standing in the roadway.

G. Food or beverages shall not be sold within 300 feet of any public property that already contains a concessionaire licensed and approved by the City of Logan.

H. The motor vehicle selling food or beverages shall not be parked in one location on public property for longer than 30 minutes.

I. The applicant shall submit evidence of insurance as set forth in Logan Municipal Code Section 5.04.040.

5.20.060: MOBILE FOOD VENDOR SALES ON PRIVATE PROPERTY:

Each mobile food vendor conducting business on private property, in addition to the other requirements of this Chapter, shall comply with the following:

A. Submit written permission from the private property owner and provide proof of access and availability to restroom facilities within 300 feet of the business location.

B. Limit sales to a period of not more than one hundred twenty (120) consecutive days on any parcel of land within a twelve (12) month period. Within any twelve (12) month period no more than one mobile food vendor shall be permitted on any one-site or parcel of real property.
B. Not operate for more than one hundred eighty (180) consecutive days on a property or parcel of land within a twelve (12) month period of time. A mobile food vendor shall obtain a new temporary business license for a different property or parcel.

C. For parcels or properties less than one (1) acre in size, only one mobile food vendor shall be permitted on that site or parcel at any one time. For parcels or properties larger than one (1) acre in size, one mobile food vendor for every 250' of lineal public street frontage shall be permitted at any one time.

D. All aspects of the business shall be temporary in nature and must be able to be removed from the premises each day. No outdoor storage is allowed and no overnight parking is permitted. Be temporary in nature with no permanent facilities constructed on site. All aspects of the business shall be removed from the premises each day at the end of operation. No overnight parking or outdoor storage shall be allowed.

E. Obtain a separate license for each individual private property location.

F. Be fully self-contained with respect to gas, water, and waste.

G. Only be permitted in the Airport, Commercial, Commercial Services, Gateway, or Industrial, Mixed Use or Town Center zoning districts as per the Logan Land Development Code and according to the following:

1. Mobile food vendors are only permitted within the historic downtown area (200 North to 100 South and 100 East to 100 West) if associated with a special event licensed by Logan City, or comply with LMC Chapter 5.35; and

2. A mobile food vendor shall not be located on vacant or undeveloped property.

H. For mobile food vendors selling food and beverages at two or more private property locations within a 15 hour period of time, the motor vehicle selling food or beverages shall not be parked on any one property or parcel for longer than 90 minutes and is therefore not required to comply with Subsection 5.20.060.A, B, C and E.

5.20.080: REVIEW AND APPROVAL PROCESS:

A. Applications shall be subject to review by code authorities, including those for public works, planning, zoning, building, fire, police, health, and others as required for the product, vendor or special event.

B. Approvals shall be based on a combination of code compliance in all applicable areas.
C. The applicant must obtain and maintain proper business and sales tax registration for all aspects of the operation prior to operating.

D. Approvals shall be based on any other factors or circumstances review authorities consider necessary to protect the public and enhance the community, such as:
   1. Pedestrian traffic and site compatibility with proposed operation; and
   2. Ability of the applicant to manage the operation and maintain compliance with all laws and local codes.

E. Based on the recommendations from the different reviewing entities, the license administrator may issue the license with any operational limitations specified, which shall specify the operational limitations as may be required.

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS 5 DAY OF FEBRUARY March, 2013 BY THE FOLLOWING VOTE:

AYES: Oden, Jensen, Daines, Ward, Quayle
NAYS: None
ABSENT: None

/s/ Holly Daines, Chair

ATTEST:
/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this 5 day of February March, 2013.

/s/ Holly Daines, Chair

MAYOR’S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 5 day of February March, 2013.

/s/ Randy Watts, Mayor
STATE OF UTAH
COUNTY OF CACHE, ss

On this 26th day of February, A.D. 2013 personally appeared
before me Monica Christensen who being first being duly sworn, deposes and says that
she is the Assistant to the Finance Director of the Cache Valley Publishing Co., publishers of The Herald Journal
a daily newspaper published in Logan City, Cache County Utah, and that the
Legal Notice, a copy of which is hereto attached was published in said
newspaper for 1 issue(s) and that said notice also published on utahlegals.com
on the same days(s) as publication in said newspaper

Commencing on the following days:
02/26/2013

Monica Christensen
Assistant to the Finance Director

Subscribed and sworn to before me on this 26th day of February, A.D. 2013

Amanda Marie Nye
Notary Public
Commissioned in the State of Utah
My Commission expires August 1, 2015
PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss

On this 12th day of March, A.D. 2013 personally appeared before me Monica Christensen who being first being duly sworn, deposes and says that she is the Assistant to the Finance Director of the Cache Valley Publishing Co., publishers of The Herald Journal, a daily newspaper published in Logan City, Cache County Utah, and that the Legal Notice, a copy of which is hereto attached was published in said newspaper for 1 issue(s) and that said notice also published on utahlegals.com on the same days(s) as publication in said newspaper Commencing on the following days:
03/12/2013

Monica Christensen, Assistant to the Finance Director

Subscribed and sworn to before me on this 12th day of March, A.D. 2013

Amanda Marie Nye, Notary Public

Commissioned in the State of Utah

My Commission expires August 1, 2015

LEGAL NOTICE
LOGAN MUNICIPAL COUNCIL

SUMMARY OF AN ORDINANCE passed by the Logan Municipal Council, Logan, Utah is as follows:

ORD.13-08. An ordinance was adopted and approved March 5, 2013 amending Sections of the Logan Municipal Code regarding Itinerant or Transient Merchants, and Mobile Food Vendors.

ORD.13-10. An ordinance was adopted and approved March 5, 2013 amending Sections 10.52.050(B) and repealing 10.52.290(E)-(F) of the Logan Municipal Code regarding Vehicle Impounding.

These ordinances are effective immediately upon publication. Full text of the ordinances may be reviewed at the Office of the Logan City Recorder, City Hall, 290 North 100 West, Logan, Utah during regular business hours.

Teresa Harris, City Recorder
Publication Date: March 12, 2013