AN ORDINANCE AMENDING SECTIONS OF LOGAN MUNICIPAL CODE REGARDING ITINERANT OR TRANSIENT MERCHANTS

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. The organizer of a single event that consists of multiple vendors at any one time may obtain one license under this chapter.

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; 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.C. Upon the granting of a license, the division shall issue a temporary business license signed by the director. The 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 issued pursuant to this chapter for a single itinerant or transient merchant shall expire as follows:

   1. The license for an itinerant or transient merchant is valid for up to one hundred eighty (180) days after the date of issuance, shall expire one hundred eighty (180) days after the date of issuance.

E. The organizer of a single event that consists of multiple vendors at any one time may obtain one license under this chapter upon satisfaction of the following conditions:

   1. The license for a single event consisting of multiple vendors at any one time is valid for up to fourteen (14) 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 a valid driver's license or other governmental issued I.D. (Passport, military ID, etc.), number, date of birth and vehicle identification information.
5.18.050: 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 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.

B. An itinerant or transient merchant proposing to operate on public property shall submit with such application, evidence of insurance as set forth in Logan Municipal Code Section 5.04.040. The organizer of a single event consisting of multiple vendors and operating on public property shall be responsible for providing evidence of insurance covering all vendors 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. 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.

H. Unless otherwise approved by the Mayor in writing, 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 shall 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 recommendations from the different reviewing entities, the license administrator may issue the license with any operational limitations specified.

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

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS 30 DAY OF July, 2017 BY THE FOLLOWING VOTE:

AYES: Needham, Simmons, Daines, Olson, Jensen

NAYS: None

ABSENT: None

Holly Daines, Chair

ATTEST: 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 20 day of July, 2017.

Holly Daines, Chair

MAYOR’S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 20 day of July, 2017.

H. Craig Petersen, Mayor
DATE:        June 6, 2017

TO:          Logan Municipal Council

FROM:        Mike DeSimone, Director

RE:          Ordinance 17-10 (Amendment to Logan Municipal Code)
             Itinerant or Transient Merchants

Attached is a proposed ordinance amending LMC Chapters 5.18 dealing with Itinerant or Transient Merchants. These rule changes clarify the licensing of multi-vendor events, eliminates the requirement for background checks, aids the City in sales tax collection, and helps simplify the licensing requirements for itinerant or transient merchants.

If you have any questions regarding this matter, please let me know at (435) 716-9022 or mike.desimone@loganutah.org.

Attachments:
Ordinance 17-10
STATE OF UTAH
COUNTY OF CACHE, ss

On this 27th day of June, A.D. 2017 personally appeared
before me MONICA CHRISTENSEN who being first being duly sworn, deposes and says that
(she) is the Principal Legal Clerk 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 day(s) as publication in said newspaper

Commencing on the following days:
06/25/2017

_____________________________, Principal Legal Clerk

Subscribed and sworn to before me on this 27th day of June, A.D. 2017

_____________________________, Notary Public
Commissioned in the State of Utah
My Commission expires 10/18/2019

LEGAL NOTICE
LOGAN MUNICIPAL COUNCIL

SUMMARY OF AN ORDINANCE-The following ordinances
were adopted and approved by the Logan Municipal Council,
Logan, Utah on June 20, 2017

ORD. 17-08 An ordinance amending the Land Development Code Chapters 17.57 Appeals and 17.27 Historic District Overlay Zone.

ORD. 17-10 An ordinance amending the Logan Municipal Code Section 5.18 regarding Itinerant or Transient Merchants.

ORD. 17-12 An ordinance vacating a Public Right of Way on Parcel 06-087-0028 at 1020 East 100 North, Logan, Utah.

ORD. 17-13 An ordinance vacating a portion of Public Utility and Walkway Easements on Parcel 07-052-0011 located at 1596 Sumac Drive, Logan, Utah.

ORD. 17-14 An ordinance vacating a portion of Public Right of Way on Parcel 02-058-0056 located at approximately 500 South 500 West, Logan, Utah.

These ordinances are effective immediately upon publication.
Full texts of the ordinances can be reviewed at the office of the Logan City Recorder, City Hall, 280 North 100 West, Logan, Utah during regular business hours.

Teresa Harris, City Recorder
Publication Date: June 25, 2017