

ORDINANCE NO. 1680
AN ORDINANCE OF THE CITY OF
TERRELL, TEXAS, AMENDING CHAPTER 5,
BUSINESS REGULATIONS, SECTION 6.
PEDDLERS AND SOLICITORS, AND
APPENDIX 1, FEE SCHEDULE, SECTION
18: PEDDLERS AND SOLICITORS FEE,
OF THE REVISED CODE OF ORDINANCES
OF THE CITY OF TERRELL, TEXAS;
PROVIDING FOR REPEAL OF CONFLICTING
ORDINANCES; PROVIDING FOR
SEVERABILITY AND PROVIDING AN
EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

SECTION I

THAT Chapter 5, Business Regulations, Section 6. Peddlers and Solicitors, of the Code of Ordinances of the City of Terrell, Texas be deleted in its entirety and replaced with the following:

SECTION 6: PEDDLERS, SOLICITORS AND VENDORS

A. PURPOSE

The primary purpose of the public streets, sidewalks, and other public ways is for use by vehicular and pedestrian traffic and vending on such public ways promotes the public interest by contributing to an active and attractive pedestrian environment. Reasonable regulation of vending on public ways and in public places is necessary to protect the public health, safety, and welfare and the regulations contained in this ordinance are not intended to prohibit or hamper speech which is protected by the First Amendment, but merely to regulate specific activities which are commercial in nature. This entire ordinance is and shall be deemed an exercise of the police power of the State and of the city for process set forth above.

B. DEFINITIONS

- (a) "Motor vehicle" shall mean any vehicle used for the displaying, storing, or transporting of articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles. The term is to include trailers, trucks, and automobiles.
- (b) "Public place" shall mean any public road, street, alley, park, building, or other property of the city or any other place to which people commonly resort for the purpose of business, recreation, or amusement.
- (c) "Special event" shall mean any occasion including, but not limited to fairs, shows, exhibitions, city-wide celebrations, festivals, etc., within a specifically defined area of the City of Terrell for a period of time not to exceed three (3) days.
- (d) "Stand" shall mean any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered by the department of motor vehicles, and is used for the display, storage, or transportation of articles offered for sale by a vendor.
- (e) "Vendor" shall mean any individual, including an employee or agent of a group of individuals, partnership, or corporation, who sells or offers to sell food, beverages, goods, or merchandise on any public way and public place from a stand, motor vehicle, or from his or her person.

C. LICENSE REQUIRED

It shall be unlawful for any vendor to sell, display, or offer for sale any food, beverage, goods, or merchandise at a public place within the City of Terrell without first obtaining a license from the City Secretary.

D. APPLICATION

The application for a vendor's license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

- (a) Full name, home address, permanent business address (if any), telephone number, driver's license number, three copies of a current full-face photograph, and proof of identity;
- (b) A brief description of the nature, character, and quality of the food, beverages, goods, or merchandise to be sold;
- (c) The specific location, if any, in which the vendor intends to conduct business;
- (d) If vendor is employed by or is an agent of another, the name and business address of the principal/hiring person, firm, association, organization, company or corporation.
- (e) If a motor vehicle is to be used in the vending business, a description of the vehicle together with the motor vehicle registration number and the license number;
- (f) A complete listing of any other licenses or permits issued to applicant by the City of Terrell within the past five (5) years;
- (g) A copy of current State of Texas Sales Tax Permit.
- (h) Vendor shall submit written consent from the property owner or agent authorized to grant consent to applicant's use of such private property for sales activity indicated in permit application.

E. HEALTH PERMITS

The application of any vendor engaged in the sale of food or beverages shall also be referred to the local health department for approval of a health permit in addition to the regular vending license. Such vendor's equipment shall be subject to inspections by the health department at the time of application and at periodic intervals thereafter.

F. ISSUANCE OF LICENSE

Not later than 30 days after the filing of a completed application for a vendor's license, the applicant shall be notified in writing by the City Secretary of the decision on the issuance or denial of the license. If the vendor applicant complies with all application requirements and is found to have no nonconformities rationally related to sales in public places in the City of Terrell, then the applicant

shall be issued a vendor's license. If a food and beverage applicant meets the prior requirements, and receives health department approval, then such applicant shall be issued both a vending license and a health permit. Any applicant denied a vending license may seek an appeal pursuant to Paragraph M of this ordinance. A vending license is valid for a period of one (1) year from the date of issuance.

G. SPECIAL EVENTS

Vendors wishing to conduct business at any special event shall apply to the city for a Temporary Vending License. Application for such a license must be made at least five (5) days prior to the beginning of the event. The license is valid only for the duration of the special event. Fees for such licenses shall be as specified in Appendix 1, Fee Schedule, Section 18. Vendors granted a temporary license are subject to the same operating regulations as other vendors, except where otherwise specified.

H. EXEMPTIONS

The following vendors are exempt from the licensing requirements of Paragraph C and Paragraph E of this ordinance, but shall otherwise be required to comply with the provisions of this ordinance.

- (a) All religious, non-profit, and charitable organizations, including school groups;
- (b) The sale of fresh produce by the grower of such produce;
- (c) Vendors, merchants, exhibitors, and sales persons who exhibit, demonstrate, or solicit orders for goods in conjunction with, and as part of the organized program of conventions, professional meetings, seminars, etc.;
- (d) Any individual selling newspapers or magazines, or distributing free samples from his or her person.

I. INSURANCE OR BOND

No license shall be issued to an applicant unless the applicant furnishes proof to the city of a public liability bond or insurance policy in an amount not less than \$50,000.00 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business.

J. LICENSES

- (a) The license issued to a vendor shall be carried with the vendor at all times when he or she is engaged in the business of vending. If the vendor sells food or beverages, the health permit must also be displayed.
 - (b) Licenses and permits shall be used only by the person to whom they were issued and may not be transferred to any other person.
-

K. RESTRICTIONS APPLICABLE TO ALL VENDORS

- (a) Stands. Vendor stands shall not:
- (1) Exceed 20 feet in length, 10 feet in width, or 13 feet in height;
 - (2) Impede access to the entrance or driveway of any adjacent building;
 - (3) Occupy more than half of the available sidewalk width or 20 feet of such sidewalk, whichever is less.
- (b) Hours of Operation. Vendors shall be allowed to engage in the business of vending only between 8:00 a.m. and 6:00 p.m. All vending stands must be removed from public property during non-vending hours. When Temporary Vending Permits are sought for special events, etc., the applicant may request from the city an exception to the usual hours of operation. All stands used for vending must be removed from public property during non-operating hours.
- (c) Handicapped Areas. No vendor shall conduct business with 20 feet of any handicapped parking space or access ramp.
- (d) Removal of Trash. All trash or debris accumulating within 50 feet of any vending stand shall be collected by the vendor and deposited in trash containers. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.
- (e) Prohibited Areas. A vending license issued pursuant to this ordinance is valid only on the public ways or in public places of the City of Terrell. The city shall prohibit vendors from selling on specified public ways or in public places if it determines such prohibitions are necessary for the protection of public health and safety. Vendor stands and motor vehicles are prohibited within 20 feet of a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, or hospital. The city, furthermore, prohibits vending near schools between the hours of 8 a.m. and 4 p.m. on school days.
- (f) Noise. No vendor may sound any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.
- (g) Motor Vehicles. No vendor vending from a motor vehicle shall:
- (1) Stop, stand or park the vehicle within 20 feet of any intersection, within any other prohibited area, or during prohibited hours;

- (2) Conduct business in such a way as would increase traffic congestion or delay, constitute a hazard to life or property, interfere with an abutting property owner, or obstruct access to emergency vehicles.
- (h) Pushcarts. Vendors utilizing pushcarts or other mobile, non-motorized vending stands may only conduct business in each location for a period of 30 minutes at a time. At the end of that period, such vendors must move to a new vending location at least 500 feet from the previous location. Pushcart vendors who do not adhere to these regulations will be considered fixed-location stand vendors, and will be assigned to a fixed location.

L. SUSPENSION OR REVOCATION OF LICENSE

- (a) Any license issued under this ordinance may be suspended or revoked for any of the following reasons:
 - (1) Fraud or misrepresentation in the application for the license;
 - (2) Fraud or misrepresentation in the course of conducting the business of vending;
 - (3) Conducting the business of vending contrary to the conditions of the license;
 - (4) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare;
 - (5) Conviction of any crime involving moral turpitude while holding a vending license from the City of Terrell;
 - (6) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.
 - (7) Any violation of this ordinance or any other city ordinance or state or federal law.
- (b) Upon suspension or revocation, the city shall deliver written notice to the license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.

M. APPEALS

Persons who are denied licenses or whose licenses have been suspended or revoked may appeal by filing a written notice of appeal to the city council within ten (10) days after notice of denial, suspension or revocation of license.

N. RENEWALS

Licenses may be renewed, provided an application for renewal and license fees are received by the city no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. The city shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this ordinance. If the city finds that the application meets the above requirements, the city shall renew said license upon payment of license fee.

SECTION II

THAT Appendix 1, Fee Schedule, Section 18: PEDDLERS AND SOLICITORS PERMIT FEE of the Code of Ordinances of the City of Terrell, Texas be deleted in its entirety and replaced with the following:

SECTION 18: PEDDLERS, SOLICITORS AND VENDORS LICENSE FEE

Any individual, including an employee or agent of a group of individuals, partnership, or corporation, who sells or offers to sell food, beverages, goods, or merchandise on any public way and public place from a stand, motor vehicle, or from his or her person shall pay a monthly fee of one hundred fifty dollars (\$150.00), which sum shall be compensation to the city for the services required of it by this ordinance and to enable the city to partially defray the expenses of enforcing the provisions of this section. Such fee is nonrefundable. A license issued under this ordinance is not transferable. Vendors granted Temporary Vending Licenses for special events shall pay a fee of \$25.00 per day of vending permitted.

This fee shall not be prorated nor refunded to the applicant regardless of whether a license is issued or not.

SECTION III

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION IV

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION V

Any person who violates any provision of this ordinance shall be punished by a fine not to exceed \$500.00 and each day and every day that the provisions of this ordinance are violated shall constitute a separate and distinct offense. This penalty is in addition to and cumulative of, any other remedies as may be available at law and equity.