

ORDINANCE NO. 243.88

AN ORDINANCE AMENDING CHAPTER FOUR, BUSINESS REGULATIONS, BY ADDING AN ADDITIONAL SECTION FIVE CONCERNING ITINERANT BUSINESSES; PERMITTING OF ITINERANT BUSINESSES, FLEA MARKETS AND REGULATION OF SUCH; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING PENALTIES; PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Willow Park believes that the adoption of same will be in the best interest for the health, safety and welfare of the citizens of the City of Willow Park; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS.

Sec. 1 Chapter 4 of the Willow Park Code of Ordinances is hereby amended to read as follows:

Section 5 Itinerant Businesses

A. Definitions

For the purpose of this section, an itinerant business is any person, firm or business entity who sells or takes orders out of a vehicle, vehicles, trailer, tables, chairs or temporary stand on a premises where there is no related business buildings or on premises where such business is not related to the business buildings.

The term flea market as used in this Article shall mean any establishment for which a fee or remuneration of any kind permits others to display for sale used or second hand wearing apparel, watches, jewelry, luggage, musical instruments, firearms, furniture, household appliances, auto parts and accessories, hand tools, mechanical equipment, garden tools, hobby items, water heaters, pipes, electrical fittings, plumbing fixtures, radios, television sets, bicycles, horse riding tack, saddles, bridles and/or any and all kinds of used goods, wares or merchandise.

B. It shall be unlawful for any itinerant business to sell or offer to sell any item or items within the City of Willow Park that is not part of a flea market or that is not housed within a properly constructed and permitted building or associated to a properly constructed and permitted building within a properly commercially zoned area within the City of Willow Park or that has not obtained a permit prior to engaging in the business.

- C. An itinerant business may be permitted to operate within the City of Willow Park for no longer than thirty (30) days outside of an established permitted flea market area if same is associated with a fair, outdoor market, outdoor festival or other such activity associated with or operated by a charitable, religious or civic activity when such a permit is properly obtained from the City of Willow Park.

Any itinerant business applicant for such a permit shall file an application in writing with the City Secretary not less than ten days before the engagement in any business as an itinerant business.

Application must contain the following information:

1. Full name of the person applying for the permit, his address, telephone number if any, and, if the itinerant business is selling on behalf of an organization, the name, address of the parent organization;
2. The address of the itinerant business during the previous five years with the name of at least one reference from each such community;
3. The fingerprints of the itinerant business person or persons in charge or an executive of decision making abilities and all employees therein;
4. Copy of a limited sales tax permit used by the State or proof that the goods sold are not subject to such sales tax;
5. Statement of the type of goods or wares to be sold;
6. Copy of a current health certificate if the merchandise is of edible quality to be sold; provided, however this shall not apply to the sale of candy, nuts or other edibles prepared and packaged by a nationally recognized manufacturer or a Texas manufacturer meeting standards imposed by State and local health codes and such packages are unbroken.

- D. Each itinerant business permit issued under this article shall be subject to cancellation for any violation of any provision of this section or any other code or ordinance violation in the City of Willow Park.

Each itinerant business permit shall expire at the end of thirty days from which date it was issued, a fee of fifty (\$50) dollars shall be paid to the City for the issuance of each permit under this section.

- E. No flea market shall be operated within the City without a license

obtained thereof which shall be procured by complying with the following provisions:

1. An applicant for a license shall make request thereof in writing addressed to the City Secretary which shall contain the name, residence, street number and such other reasonable information that will identify such applicant. if the applicant is a firm or corporation, the application shall contain the classification of such applicant and show the individual members of the partnership and/or the officers of the corporation.

2. The license application shall contain the following words:

The license hereby applied for shall be subject to all provisions, regulations of the code of the City of Willow Park and other ordinances of the City related to junk, junk dealers, second- hand dealers, pawn brokers and itinerant merchants or vendors.

3. The annual license fee for license under section shall be Five Hundred (\$500.00) paid in advance.

4. Such application shall be signed and sworn to by the person applying thereof before some officer authorized by law to administer oath.

5. Each applicant shall be presented to the City Secretary, who shall issue a license to the applicant upon his compliance with the terms of this article.

F. Every flea market operator while engaged in the prosecution of his business shall have posted in public view and available on inspection at all times his license to be engaged in such business.

The license issued under this article shall not allow the hold thereof to engage in the sale of used merchandise and shall only authorize the operation of flea market for the rental or the privilege of selling such merchandise to others.

No person, firm or business shall be allowed to display merchandise for sale in any flea market unless and until the license he hereunder has obtained and recorded in a record book which shall be legibly written by the licensee at the time such spaces are rented, the name, age, sex, signature, residence of the person or persons displaying merchandise with the permission of the licensee together with the Texas Drivers License Number issued to such person and the thumbprint in ink opposite his name in such registration book. The date that such merchandise is to be displayed shall be also entered there and the

licensee shall be responsible for seeing that no person is allowed to display merchandise more frequently than four times in any two month period.

- G. All merchandise on the premise of the flea market shall be subject to inspection any time by City Police Officers. Persons displaying merchandise for sale may be required by such police officers to verify that they are the legal owners of such merchandise.

Any person violating any provision of the section or any other ordinance or code within the City of Willow Park shall be barred from displaying any merchandise at a flea market within the City Limits of the City of Willow Park.

Sec. 2 If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

Sec. 3 Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon final conviction thereof fined in an amount not to exceed One Thousand Dollars (\$1,000.00). Each and every day any such violation continues shall be deemed a separate offense and is punishable as such hereunder.

Sec. 4 The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication provided by law.

AND IT IS SO ORDERED

Passed on first reading on the 20th day of September, 1988, by a vote of 4 to 1.

CITY OF WILLOW PARK

J Mark Bumpas

Mayor

ATTEST:

Aref Hassan

Aref Hassan
City Secretary

APPROVED AS TO FORM AND LEGALITY

Carter L. Hampton

Carter L. Hampton
City Attorney