

ORDINANCE NO. 341 -9 3

AN ORDINANCE AMENDING CHAPTER 4, SECTION 6, ITINERANT BUSINESSES, THE CODE OF THE CITY OF WILLOW PARK, TEXAS, RELATING TO REGULATION OF ITINERANT BUSINESSES WITHIN THE CITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND, PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

I.

Chapter 4, Section 6, of the Code of Ordinances, City of Willow Park, Texas, is hereby amended by deleting existing section and substituting the following:

ARTICLE 4.600 ITINERANT BUSINESS

Section 4.601 Definitions

A. Itinerant Business

For the purpose of this article, 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 are no related business buildings or on premises where such business is not related to the business buildings. (Chapter 4, Section 6A, Code of 1986).

B. Seasonal

A seasonal business is one which, by its nature and context, is temporary in nature and which operates intermittently in response to specific activities or conditions which are themselves intermittent in nature.

Section 4.602 Unlawful Acts

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 with a properly constructed and permitted building within a properly commercially zoned area within the City of Willow Park and that has not obtained a permit prior to engaging in the business (Chapter 4, Section 6(B), Code of 1986).

Section 4.603 Itinerant Business Permitted

An itinerant business may be permitted to operate within the City of Willow Park outside of an established permitted flea market if such activity is part of a temporary or seasonal activity either associated with an existing business within the City of Willow Park or is of a type and kind traditionally carried on within the City. Such an itinerant business may be permitted for the length of a term to be stipulated in their permit, but such is not to exceed a period of six (6) months. Such permit is to be issued by the City Administrator. Itinerant businesses not qualifying as seasonal or traditional activities may obtain a permit to operate for no longer than thirty days outside of an established permitted flea market if same is associated with a fair, outdoor market, outdoor festival, or such other activities associated with or operated by a charitable, religious or civic activity from the City of Willow Park. (Chapter 4, Section 6C, Code of 1986). Examples of such businesses are, but shall not be limited to, sellers of: tip sheets, racing forms, art work, sellers of agricultural produce raised all or in part by the seller (this section specifically does not apply to sellers of agricultural produce or products purchased for resale), etc.

#### Section 4.604 Itinerant Business Permit Application

Any itinerant business making application for such a permit shall file an application in writing with the City Secretary not less than ten (10) days before the engagement in any business as an itinerant business. Application must contain the following information:

(a) Full name of person applying for the permit, his or her address, telephone number if any, and, if the itinerant business is selling on behalf of an organization, the name and address of the parent organization;

(b) The address of the itinerant business during the previous five (5) years from the name of at least one (1) reference from each such community;

(c) Copy of a limited sales tax permit used by the State of Texas or proof that the goods sold are not subject to such State Sales Tax or proof that the goods to be sold are the produce of the vendor and not subject to such tax.

(d) Statement of the type of goods or wares to be sold;

(e) 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, or other similar agricultural products whose production, distribution or packaging are regulated by state, local or federal law.

#### Section 4.605 Cancellation of Itinerant Business Permit

Each itinerant business permit issued under this article shall be subject to cancellation for any violation of any provision of this article or any other code or

ordinance violation in the City of Willow Park. (Chapter 4, Section 6E, Code of 1986).

Section 4.606 Itinerant Business Permit Duration; Fee

Each itinerant business permit shall contain an expiration date as established under this ordinance. A fee as set forth in the Fee Schedule found in the Appendix of this Code, shall be paid to the City for the issuance of each permit under this Article.

II.

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

III.

Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

IV.

Wherever in this Ordinance an act is prohibited or made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of an act is required or the failure to do an act is declared to be unlawful, the violation of any such provision of this Ordinance shall be punished as provided in Chapter 1, Section 1F of the Code of the City of Willow Park, Texas, for each offense or for each day such offense shall continue if it is one classified as a continuing offense. No penalties shall be greater or less than the penalty provided for the same or similar offense under the laws of the State of Texas.

V.

This ordinance shall be in full force and effect from and after the date of its passage and publication as required by law.

PASSED AND ADOPTED this the 20th day of July, 1993

APPROVED:

William J. Clemens

William J. Clemens, Mayor

ATTEST:

Barbara Kilough

City Secretary

APPROVED:

Walter W. Leonard

WALTER W. LEONARD, City Attorney