

4/19/2011

ORDINANCE NO. 28241

An ordinance amending Section 32-10 of CHAPTER 32, "PARKS AND WATER RESERVOIRS," of the Dallas City Code, as amended; prohibiting the sale, distribution, or offering for sale of any services or goods in city parks or other areas under the control of the park and recreation board; providing defenses; providing for enforcement; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 32-10, "Sale of Merchandise," of Article I, "In General," of CHAPTER 32, "PARKS AND WATER RESERVOIRS," of the Dallas City Code, as amended, is amended to read as follows:

**"SEC. 32-10. SALE OF SERVICES OR GOODS ON PARK PROPERTY
[MERCHANDISE].**

(a) A [It shall be unlawful for any] person commits an offense if the person [to] sells, distributes, or offers for sale any services or goods, including but not limited to food, drinks, confections, or merchandise, [or services] in a city park or another area[s] under the control of the park and recreation board [unless such person has a written agreement or a permit issued from the office of the park board permitting the sale of such items. Application for such agreements or permits shall be made to the office of the park board].

(b) It is a defense to prosecution under Subsection (a) of this section that the person:

(1) was selling, distributing, or offering for sale the services or goods by authority of a written contract or permit with the city, through the park and recreation department, to operate a concession in that area;

(2) was selling, distributing, or offering for sale the services or goods in connection with the transaction of official government business;

(3) was selling, distributing, or offering for sale only an item or items containing primarily noncommercial speech, including but not limited to newspapers, books, magazines, audio and video compact discs (CDs), or digital versatile discs (DVDs), and the selling, distributing, or offering for sale was not being conducted:

(A) from a machine;

(B) at a time when the area was closed to the public;

(C) in an area used for storage;

(D) in an area under the control or management of another person or private entity pursuant to a written agreement with the city;

(E) inside any building, including but not limited to a recreational center;

(F) in a parking lot that serves a city park or another area under the control of the park and recreation board; or

(G) in a way that obstructed a public street or sidewalk;

(4) was selling, distributing, or offering for sale only periodicals from a coin-operated machine by authority of a license to operate the machine in that area, unless such sale, distribution, or offering for sale was prohibited in the area by another city ordinance or a city contract;

(5) was selling or offering for sale the services of a vehicle for hire that was being operated by that person;

(6) did not receive remuneration from the person being given the services or goods; did not use any type of vehicle or stand, any part of which touched the ground, when distributing the services or goods; and did not interfere with traffic flow on a public street or sidewalk when distributing the services or goods; or

(7) was selling, distributing, offering for sale, or delivering the services or goods to a person qualifying for any defense described in Paragraphs (1) through (6) of this subsection.

(c) In addition to any enforcement action by a peace officer or the director of the park and recreation department, or an authorized representative, for a violation of this section, any person who is a victim of an act prohibited under this section, or who witnesses a violation of this section, may file a complaint with the city attorney. Evidence to support a conviction for a violation of this section may include, but is not limited to, testimony of witnesses, videotape evidence of the violation, and other admissible evidence."

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 3. That CHAPTER 32 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 5. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By Rachel Oliver
Assistant City Attorney

Passed JUN 22 2011

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