

ORDINANCE NO. 29016

An ordinance repealing CHAPTER 29, "MUNICIPAL PRODUCE MARKET" (composed of Sections 29-1 through 29-32), amending CHAPTER 29A, "NEIGHBORHOOD FARMERS MARKET" (composed of Sections 29A-1 through 29A-15), and amending Sections 42A-2, 42A-3, 42A-4, 42A-5, 42A-8, and 42A-13 of CHAPTER 42A, "SPECIAL EVENTS," of the Dallas City Code, as amended; defining terms; eliminating requirements, regulations, procedures, and other provisions relating to the municipal produce market; providing requirements and exceptions for the Dallas Farmers Market in city code provisions governing neighborhood farmers markets and special events; providing a penalty not to exceed \$2,000; 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 CHAPTER 29A, "NEIGHBORHOOD FARMERS MARKETS," of the Dallas City Code, as amended, is amended to read as follows:

"CHAPTER 29A

NEIGHBORHOOD FARMERS MARKETS

ARTICLE I.

GENERAL PROVISIONS.

SEC. 29A-1. PURPOSE.

The purpose of this chapter is to facilitate the promotion of neighborhood farmers markets within the city to support the local economy, to encourage sustainable living, and to create a more positive image of the city.

SEC. 29A-2. DEFINITIONS.

In this chapter:

(1) **APPLICANT** means a person who has filed a written application for a neighborhood farmers market permit.

(2) **CENTRAL BUSINESS DISTRICT** means the area bounded by Woodall Rogers Freeway on the north, Central Expressway and Julius Schepps Freeway on the east, Interstate Highway 30 on the south, and Interstate Highway 35E on the west.

(3) **CITY** means the city of Dallas, Texas.

(4) **DALLAS FARMERS MARKET** means a permanent, indoor and outdoor marketplace on public and private property where produce, merchandise, food, or other products are distributed, offered for sale, or sold to consumers and that is:

(A) bounded by Marilla Street on the north, northbound Cesar Chavez Boulevard on the east, Interstate Highway 30 on the south, and Harwood Street on the west; and

(B) described in and subject to a master agreement with the city adopted on February 27, 2013 by Resolution No. 13-0447 and the operating covenants with the city contained in lease and deed documents authorized on March 27, 2013 by Resolution Nos. 13-0535, 13-0536, 13-0537, 13-0538, and 13-0539.

(5) **DIRECTOR** means the person designated by the city manager to implement, administer, and enforce this chapter, and includes any designated representative of the director.

(6) [(5)] **NEIGHBORHOOD FARMERS MARKET or MARKET** means:

(A) a temporary, outdoor marketplace on private property:

(i) [(A)] where produce, merchandise, food, or other products are distributed, offered for sale, or sold directly to consumers by the persons that have raised, grown, made, crafted, processed, or produced the products;

(ii) [(B)] for which the estimated number of vendors and attendees for any day of the market does not exceed 1,000;

(iii) [(C)] that is not being operated as part of a special event permitted under Chapter 42A of this code; and

(iv) [(D)] that involves one or more of the following activities:

(aa) [(i)] the sale [~~Sale~~] of merchandise, food, or beverages on private property where otherwise prohibited by ordinance; [-]

(bb) [(ii)] the erection [~~Erection~~] of stalls or tents on private property where otherwise prohibited by ordinance; [-]

(cc) [(iii)] the placement [~~Placement~~] of portable toilets on private property where otherwise prohibited by ordinance; or [-]

(dd) [(iv)] the placement [~~Placement~~] of temporary no-parking, directional, over-size, or identification signs or banners on private property where otherwise prohibited by ordinance; or

(B) the Dallas Farmers Market.

(7) [(6)] NEIGHBORHOOD FARMERS MARKET PERMIT means written approval to hold a neighborhood farmers market issued by the director under this chapter.

(8) [(7)] PERMIT HOLDER means a person issued a neighborhood farmers market permit.

(9) [(8)] PERSON means an individual, firm, partnership, corporation, association, or other legal entity.

(10) [(9)] VENDOR means a person who distributes, offers for sale, or sells produce, merchandise, food, or other products at a neighborhood farmers market.

SEC. 29A-3. GENERAL AUTHORITY AND DUTY OF DIRECTOR.

(a) The director shall implement, administer, and enforce the provisions of this chapter.

(b) The director has authority to issue a neighborhood farmers market permit that authorizes one or more of the activities described in Section 29A-2(6)(A)(iv) [(5)] when requirements of this chapter have been met.

SEC. 29A-4. CHAPTER CUMULATIVE.

(a) The provisions of this chapter are cumulative of all city ordinances. Tent permits, building permits, electrical permits, food establishment permits, alcoholic beverage permits and licenses, and all other permits and licenses required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the neighborhood farmers market must be applied for separately, in accordance with the applicable ordinance or law. The director shall receive and coordinate applications for any city-issued permit or license required in addition to the neighborhood farmers market permit.

(b) Application for a neighborhood farmers market permit authorizes appropriate city departments to issue permits for the activities described in Section 29A-2(6)(A)(iv) [(5)] in locations where the activity would otherwise be prohibited by ordinance.

ARTICLE II.

NEIGHBORHOOD FARMERS MARKET PERMITS.

SEC. 29A-5. APPLICATION; ISSUANCE.

(a) A person desiring to hold a neighborhood farmers market shall apply for a neighborhood farmers market permit by filing with the director a written application upon a form provided for that purpose. Only one permit for a neighborhood farmers market will be issued to the same applicant within a calendar year, and that permit will only allow the market to be operated at the single location designated in the permit application. Each application must be accompanied by the required application fee. An application must be filed not less than 30 days before the neighborhood farmers market is to begin. The director may waive the 30-day filing requirement if the application can be processed in less than 30 days, taking into consideration the number and types of permits required to be issued in conjunction with the neighborhood farmers market.

(b) An application must contain the following information:

(1) The name, address, and telephone number of the applicant and of any other persons responsible for the conduct of the neighborhood farmers market.

(2) The street address of the proposed location of the neighborhood farmers market; the name, address, and telephone number of the property owner; and a copy of the consent required by Section 29A-10(c) [(b)], if applicable.

(3) A description of the neighborhood farmers market, including a proposed schedule of the dates and hours of operation for the market (not to exceed 28 operating days in any calendar year, none of which may be consecutive days), except that this requirement does not apply to the Dallas Farmers Market.

(4) The estimated number of vendors and attendees for each day of the market.

(5) A drawing showing the area to be used for the neighborhood farmers market, along with proposed structures, tents, fences, barricades, signs, and banners.

(6) Provisions for parking with a designation of where "No Parking" signs will be used.

(7) Details of the sale of merchandise or the sale or serving of food or alcoholic or nonalcoholic beverages at the market, including but not limited to the names of participating vendors, a description of items to be sold, and the percentages of food and nonfood items to be sold.

(8) Details of how the applicant will clean up after the neighborhood farmers market each day.

(9) Proof that the applicant possesses or is able to obtain all licenses and permits required by this code or other city ordinances or by state law for the conduct of the neighborhood farmers market.

(10) If the applicant is a corporation, copies of a current certificate of account status issued by the Texas Comptroller's Office and a current certificate of existence issued by the Texas Secretary of State's Office, or, if the corporation is not incorporated in or holding a certificate of authorization in the State of Texas, copies of similar current certificates from the state in which the corporation is incorporated.

(11) A description (including but not limited to the name, date, location, and size) of each neighborhood farmers market that the applicant conducted or sponsored, or participated in conducting or sponsoring, within the preceding two years.

(12) Any other information the director determines necessary for the administration and enforcement of this chapter.

(c) Upon receipt of the completed application, the director shall forward a copy of the application to the building official and the departments of police, fire-rescue, risk management, code compliance, street services, and public works. The building official and each department shall review the application and return it, with any comments, to the director within 10 working days after receipt.

(d) The building official, departments, and the director may prescribe licenses, permits, and authorizations required by other city ordinances or applicable law, restrictions, regulations, safeguards, and other conditions necessary for the safe and orderly conduct of a neighborhood farmers market, to be incorporated into the permit before issuance.

(e) After reviewing the application and comments, the director shall issue the neighborhood farmers market permit unless denial is required by Section 29A-8 [42]. A neighborhood farmers market permit expires January 1 of each year and may be renewed by applying in accordance with this section.

SEC. 29A-6. FEES.

[(a)] An applicant for a neighborhood farmers market permit shall pay the following fees to conduct the market:

(1) A nonrefundable application fee of:

(A) \$200 for a neighborhood farmers market in which the estimated number of vendors does not exceed 25; ~~[or]~~

(B) \$300 for a neighborhood farmers market in which the estimated number of vendors is more than 25 but does not exceed 50; or

(C) \$400 for the Dallas Farmers Market.

(2) All fees for permits and licenses required by other city ordinances to conduct specific activities in conjunction with or as part of the neighborhood farmers market.

SEC. 29A-7. INDEMNIFICATION.

An applicant for a neighborhood farmers market permit must execute a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the conduct of the market.

SEC. 29A-8. DENIAL OR REVOCATION.

(a) The director shall deny a neighborhood farmers market permit if:

(1) a neighborhood farmers market permit has been previously granted in the calendar year to another neighborhood farmers market that is located within one mile of the proposed market and has the same or overlapping operating dates and times as the proposed market, except that this restriction does not apply when the proposed market is the Dallas Farmers Market;

(2) the proposed neighborhood farmers market will unreasonably disrupt the orderly flow of traffic, and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;

(3) the applicant fails to adequately provide for:

(A) the protection of the vendors and attendees at the neighborhood farmers market;

(B) maintenance of public order in and around the neighborhood farmers market location;

(C) crowd security, taking into consideration the size of the market; or

(D) emergency vehicle access.

(4) the applicant fails to comply with or the proposed neighborhood farmers market will violate a city ordinance or other applicable law, unless the prohibited conduct or activity would be allowed under this chapter;

(5) the applicant makes a false statement of material fact on an application for a neighborhood farmers market permit or fails to properly complete an application for a neighborhood farmers market permit;

(6) the applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by another city ordinance or other applicable law for the conduct of all activities included as part of the neighborhood farmers market;

(7) the applicant has had a neighborhood farmers market permit revoked within the preceding 14 months;

(8) the applicant or a vendor at the applicant's market has committed, within the preceding 14 months, two or more violations of a provision of a neighborhood farmers market permit or this chapter;

(9) the applicant fails to pay any outstanding fees assessed under Section 29A-6 of this chapter for the proposed neighborhood farmers market or for a past neighborhood farmers market;

(10) the applicant has conducted or sponsored another neighborhood farmers market during the same calendar year in which the proposed neighborhood farmers market is to be held, except that this restriction does not apply to the Dallas Farmers Market;

(11) a neighborhood farmers market has been conducted at the location of the proposed neighborhood farmers market on at least 28 days during the same calendar year in which the proposed market is to be conducted, except that this restriction does not apply to the Dallas Farmers Market;

(12) the chief of the police department, the chief of the fire-rescue department, or the director determines that the neighborhood farmers market would pose a serious threat to the public health, safety, or welfare;

(13) the applicant or any other person responsible for the conduct or sponsorship of the neighborhood farmers market is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or other person;

(14) the applicant has a history of conducting or sponsoring a neighborhood farmers market in a disorderly, unsafe, unsanitary, or fiscally irresponsible manner; or

(15) the applicant, if it is a corporation, fails to provide copies of a current certificate of account status and current certificate of existence as required by Section 29A-5(b)(10).

(b) The director shall revoke a neighborhood farmers market permit if:

(1) the permit holder failed to comply with or the neighborhood farmers market is in violation of any provision of the neighborhood farmers market permit, a city ordinance, or any other applicable law;

(2) the permit holder made a false statement of material fact on an application for a neighborhood farmers market permit or failed to properly complete an application for a neighborhood farmers market permit;

(3) the chief of the police department, the chief of the fire-rescue department, or the director determines that the neighborhood farmers market poses a serious threat to the public health, safety, or welfare;

(4) the permit holder failed to pay any outstanding fees assessed under Section 29A-6 of this chapter for the proposed neighborhood farmers market or for a past neighborhood farmers market;

(5) the permit holder or any other person responsible for the conduct or sponsorship of the neighborhood farmers market is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the permit holder or other person; or

(6) the permit holder, if it is a corporation, failed to provide copies of a current certificate of account status and current certificate of existence as required by Section 29A-5(b)(10).

SEC. 29A-9. APPEAL FROM DENIAL OR REVOCATION OF A NEIGHBORHOOD FARMERS MARKET PERMIT.

If the director denies the issuance or renewal of a permit or revokes a permit, the director shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of the denial or revocation and of the right to an appeal. The applicant or permit holder may appeal the decision of the director to a permit and license appeal board in accordance with Section 2-96 of this code.

ARTICLE III.

MISCELLANEOUS PROVISIONS.

SEC. 29A-10. LOCATION OF A NEIGHBORHOOD FARMERS MARKET.

(a) A neighborhood farmers market may not be conducted:

(1) in the central business district;

(2) in a single family, duplex, or townhouse zoning district as defined in the Dallas Development Code;

(3) within one mile of another neighborhood farmers market permitted under this chapter that has the same or overlapping operating dates and times;

(4) at any location other than the one listed in the permit application; or

(5) at any location where one or more neighborhood farmers markets have already been conducted a total of 28 days during the particular calendar year.

(b) The restrictions of Subsections (a)(1), (2), (3), and (5) of this section do not apply to the Dallas Farmers Market.

(c) If the permit holder does not own the property on which the neighborhood farmers market will be conducted, the permit holder shall obtain the written consent of the property owner to conduct the market on the property. The permit holder shall present the written consent to the director or any peace officer upon request.

SEC. 29A-11. OPERATION OF A NEIGHBORHOOD FARMERS MARKET.

(a) A neighborhood farmers market may not be operated more than 28 days in a calendar year and may not be operated on consecutive days.

(b) A neighborhood farmers market may only be operated between the hours of 8 a.m. and 7 p.m. on any day of the week.

(c) The neighborhood farmers market may only be operated in accordance with the schedule filed with the director at the time of permit application. Amendment to the schedule may be approved by the director during the calendar year if the changes do not conflict with the schedule of another neighborhood farmers market. An amendment request must be received by the director at least 10 days before implementing any changes.

(d) No more than 50 vendors may participate in a neighborhood farmers market. Each stall area used by a vendor may not exceed 10 feet by 10 feet.

(e) When the main use of the property is open for business, not more than 25 percent of the total area of the parking lot for the property may be used for a neighborhood farmers market.

(f) All litter, tents, stalls, food, merchandise, and other evidence of the neighborhood farmers market must be removed from the premises at the end of each market day.

(g) Subsections (a) through (f) of this section do not apply to the Dallas Farmers Market, which shall operate in compliance with its agreements and covenants with the city.

SEC. 29A-12. PRODUCTS AT A NEIGHBORHOOD FARMERS MARKET.

(a) Products that may be sold at a neighborhood farmers market include, but are not limited to, the following:

(1) Fruits, vegetables, honey, eggs, nuts, herbs, and mushrooms.

- (2) Meats.
- (3) Dairy products.
- (4) Prepared foods, including but not limited to baked goods, packaged foods, and oils.
- (5) Arts and crafts, including but not limited to jewelry, candles, natural skin care products, soaps, art, knitting, quilts, and pottery.
- (6) Garden items, including but not limited to plants, flowers, and soil.

(b) At least one half of the vendors participating in a neighborhood farmers market must sell produce or other food items.

(c) All products distributed, offered for sale, or sold at a neighborhood farmers market must have been raised, grown, made, crafted, processed, or produced by the vendor in a Texas county completely or partially located within a 150-mile radius of Dallas County, except that the 150-mile radius requirement does not apply to produce or other food items determined by the director to be unavailable from vendors in the radius area. No products may be offered for resale. This subsection does not apply to the Dallas Farmers Market.

(d) Live animals may not be distributed, offered for sale, or sold at a neighborhood farmers market.

SEC. 29A-13. VENDOR'S STATEMENT.

(a) Each calendar year before vending at a neighborhood farmers market, a vendor shall sign and provide to the permit holder a written statement that:

(1) all products to be distributed, offered for sale, or sold at the neighborhood farmers market by the vendor have been raised, grown, made, crafted, processed, or produced by the vendor in compliance with all applicable federal, state, and local laws and in a Texas county completely or partially located within a 150-mile radius of Dallas County (or in an area from which the director, pursuant to Section 29A-12(c), allows certain produce or other food items to be distributed, offered for sale, or sold at the market because of the unavailability of those items from vendors in the radius area); and

(2) no product is being offered for resale.

(b) The permit holder shall maintain a vendor statement for each vendor operating at the neighborhood farmers market and shall present the vendors' statements to the director or any peace officer upon request.

(c) Subsections (a) and (b) of this section do not apply to the Dallas Farmers Market.

ARTICLE IV.**ENFORCEMENT.****SEC. 29A-14. OFFENSES.**

(a) A person commits an offense if he commences or conducts a neighborhood farmers market:

(1) without a neighborhood farmers market permit; or

(2) in violation of any provision of a neighborhood farmers market permit, this chapter, or any other city ordinance or applicable law.

(b) It is a defense to prosecution under this section that the neighborhood farmers market was being lawfully conducted pursuant to a valid special events permit issued under Chapter 42A of this code.

(c) The culpable mental state required for the commission of an offense under this chapter is governed by Section 1-5.1 of this code.

SEC. 29A-15. PENALTY.

(a) A person who violates a provision of this chapter or a requirement of a neighborhood farmers market permit is guilty of a separate offense for each day or part of a day during which the violation is committed or continued.

(b) Each offense is punishable by a fine not to exceed:

(1) \$2,000 for a violation of a provision of this chapter or a requirement of a neighborhood farmers market permit governing fire safety, zoning, or public health and sanitation, including dumping of refuse; or

(2) \$500 for all other violations of this chapter or requirements of a neighborhood farmers market permit."

SECTION 2. That Section 42A-2, "Definitions," of Article I, "General Provisions," of CHAPTER 42A, "SPECIAL EVENTS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 42A-2. DEFINITIONS.

In this chapter:

(1) APPLICANT means a person who has filed a written application for a special event permit.

(2) CITY means the city of Dallas, Texas.

(3) CITY-LICENSED VENDOR means any person licensed or permitted under this code or another city ordinance to sell or offer for sale food, beverages, goods, or services at or within a specific location or area in the city.

(4) CITY-SPONSORED SPECIAL EVENT means a special event that the city council, by resolution, has:

(A) determined to be directly related to a recognized function of city government;

(B) declared the city a cosponsor of the event; and

(C) committed the city to significantly sharing in initiating, financing, supporting, and conducting the event.

(5) DALLAS FARMERS MARKET means the area that is:

(A) bounded by Marilla Street on the north, northbound Cesar Chavez Boulevard on the east, Interstate Highway 30 on the south, and Harwood Street on the west; and

(B) described in and subject to a master agreement with the city adopted on February 27, 2013 by Resolution No. 13-0447 and the operating covenants with the city contained in lease and deed documents authorized on March 27, 2013 by Resolution Nos. 13-0535, 13-0536, 13-0537, 13-0538, and 13-0539.

(6) DEMONSTRATION means a public display of the attitude of assembled persons toward a person, cause, issue, or other matter.

(7) [(6)] ESTABLISHED SPECIAL EVENT means an event or activity that:

(A) occurs at least once a year;

(B) has an average attendance exceeding 1,000 participants and spectators for each day of the event or activity;

(C) significantly contributes to positive advertising and economic growth of the city; and

(D) is open to the public, with or without an entry fee.

(8) [(7)] PERSON means an individual, firm, partnership, corporation, association, or other legal entity.

(9) [(8)] SPECIAL EVENT means a temporary event or gathering, including a special event parade, using either private or public property, in which the estimated number of participants and spectators exceeds 75 during any day of the event and that involves one or more of the following activities, except when the activity is for construction or housemoving purposes only:

- (A) closing of a public street;
- (B) blocking or restriction of public property;
- (C) sale of merchandise, food, or beverages on public property outside the central business district, or on private property where otherwise prohibited by ordinance;
- (D) erection of a tent on public property, or on private property where otherwise prohibited by ordinance;
- (E) installation of a stage, bandshell, trailer, van, portable building, grandstand, or bleachers on public property, or on private property where otherwise prohibited by ordinance;
- (F) placement of portable toilets on public property, or on private property where otherwise prohibited by ordinance; or
- (G) placement of temporary no-parking, directional, over-size, or identification signs or banners in or over a public right-of-way, or on private property where otherwise prohibited by ordinance.

(10) [(9)] SPECIAL EVENT MANAGER means the person designated by the city manager to implement, administer, and enforce this chapter, and includes any designated representative of the special event manager.

(11) [(10)] SPECIAL EVENT PARADE means the assembly of three or more persons whose gathering is for the common design of traveling or marching in procession from one location to any other location for the purpose of advertising, promoting, celebrating, or commemorating a thing, person, date, or event that is not directly related to the expression of feelings and beliefs on current political, religious, or social issues.

(12) [(11)] SPECIAL EVENT PERMIT means written approval to hold a special event granted by the special event manager under this chapter."

SECTION 3. That Subsection (b) of Section 42A-3, "General Authority and Duty of Special Event Manager," of Article I, "General Provisions," of CHAPTER 42A, "SPECIAL EVENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(b) The special event manager has authority to issue a special event permit that authorizes one or more of the activities described in Section 42A-2(9) [(8)] when requirements of this chapter have been met."

SECTION 4. That Subsection (b) of Section 42A-4, "Chapter Cumulative," of Article I, "General Provisions," of CHAPTER 42A, "SPECIAL EVENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(b) Application for a special event permit authorizes appropriate city departments to issue permits for the activities described in Section 42A-2(9) [(8)] in locations where the activity would otherwise be prohibited by ordinance."

SECTION 5. That Section 42A-5, "Exemptions," of Article I, "General Provisions," of CHAPTER 42A, "SPECIAL EVENTS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 42A-5. EXEMPTIONS.

The provisions of this chapter do not apply to:

- (1) a special event conducted entirely on:
 - (A) property under the control of the park and recreation board; or
 - (B) the "convention center" or "reunion arena" as defined in Section 43-127 of this code; ~~or~~
 - (C) ~~the "municipal produce market" as defined in Section 29-3 of this code;~~
- (2) a parade, as defined in Section 28-186(4) of this code, for which a permit has been issued under Article XVI of Chapter 28 of this code, except that a special event permit must be obtained for any activity not covered by the parade permit that is conducted in conjunction with the parade and that comes within the definition of a special event;
- (3) a demonstration at a fixed location other than the roadway of a street; ~~or~~
- (4) a neighborhood farmers market (other than the Dallas Farmers Market), as defined in Section 29A-2(6) [(5)] of this code, for which a permit has been issued under Chapter 29A of this code, except that a special event permit must be obtained if the market is being conducted in conjunction with other activities for which a special event permit is required by or has been issued under this chapter; or

(5) the distribution, offering for sale, or sale of produce, merchandise, food, or other products to consumers at the Dallas Farmers Market in compliance with a neighborhood farmers market permit issued under Chapter 29A of this code, except that a special event permit must be obtained for any event or activity, not covered by the neighborhood farmers market permit, that is conducted at the Dallas Farmers Market in conjunction with or in addition to the distribution, offering for sale, or sale of produce, merchandise, food, or other products to consumers and that comes within the definition of a special event."

SECTION 6. That Section 42A-8, "Fees," of Article II, "Special Event Permits," of CHAPTER 42A, "SPECIAL EVENTS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 42A-8. FEES.

(a) An applicant for a special event permit shall pay the following fees to conduct the special event:

(1) A nonrefundable application fee of:

(A) \$30 for a special event (other than one involving commercial filming activity) in which the estimated number of participants and spectators in any day of the event exceeds 75 but does not exceed 200;

(B) \$50 for a special event (other than one involving commercial filming activity) in which the estimated number of participants and spectators in any day of the event exceeds 200 but does not exceed 400;

(C) \$75 for a special event (other than one involving commercial filming activity) in which the estimated number of participants and spectators in any day of the event exceeds 400 but does not exceed 800;

(D) \$100 for a special event (other than one involving commercial filming activity) in which the estimated number of participants and spectators in any day of the event exceeds 800 but does not exceed 1,000;

(E) \$250 for a special event (other than one involving commercial filming activity) in which the estimated number of participants and spectators in any day of the event exceeds 1,000 but does not exceed 20,000;

(F) \$500 for a special event (other than one involving commercial filming activity) in which the estimated number of participants and spectators in any day of the event exceeds 20,000; [and]

(G) \$250 for a special event involving commercial filming activity, regardless of the estimated number of participants and spectators in any day of the event, except that the fee is \$50 if the special event requires:

- (i) only street closings and/or traffic management services; or
- (ii) only the hooding of parking meters; and

(H) no application fee for a special event that is open to the public and being conducted at the Dallas Farmers Market in compliance with the market's agreements and covenants with the city.

(2) All fees for permits and licenses required by other city ordinances to conduct specific activities in conjunction with or as part of the special event.

(3) A parking meter hooding or removal fee, computed in accordance with Section 28-114.12 of this code, for each parking meter required by the applicant to be hooded or removed for the special event.

(4) A rental fee for city equipment and property, including but not limited to barricades and street fixtures, used by the applicant for the special event.

(5) A fee for the number of Dallas police officers required by Section 42A-12 to provide security, crowd control, and traffic control at the special event.

(6) A fee to reimburse the city for direct costs incurred by the city in providing services at the special event; direct costs include, but are not limited to, the reasonable costs of setup, cleanup, electrical services, construction, placement of "No Parking" signs and other traffic control devices, and other related services beyond what the city would provide to the general public in the ordinary course of its daily operations.

(7) A fee of \$40, in addition to the applicable application fee required by Paragraph (1) of this subsection, if:

(A) the application for a special event is filed with the special event manager less than 45 days before the special event is scheduled to begin; or

(B) changes are requested to a previously submitted application that, in the opinion of the special event manager, substantially modify the scope or nature of the special event.

(8) A fee for the number of Dallas emergency medical personnel and emergency medical vehicles required by Section 42A-11.1 to provide first aid and emergency medical services at the special event.

(b) A current list of charges for the items, services, and personnel described in Subsections (a)(4), (5), (6), and (8) and in Subsection (c)(3) must be maintained in the special event manager's office and made available for public inspection during normal business hours. The chief of the police department shall provide to the special event manager the current schedule of charges for the personnel described in Subsection (a)(5), and the chief of the fire-rescue department shall provide to the special event manager the current schedule of charges for the personnel and vehicles described in Subsection (a)(8).

(c) Not less than 10 days before the date of the special event as shown on the special event permit, the applicant shall deposit with the special event manager an amount equal to:

(1) all permit and license fees required by Subsection (a)(2);

(2) one-third of the estimated fees required by Subsections (a)(3), (4), and (6);

and

(3) a security deposit for any city equipment or property rented under Subsection (a)(4), to be refunded to the applicant if the equipment or property is returned undamaged to the city.

(d) The applicant shall pay any remaining fees owed the city for a special event within 60 days after the special event ends. The applicant may, upon written request to the special event manager, obtain a refund of any fee deposited with the special event manager for a service that the city did not provide for the special event.

(e) All or part of the fees required by Subsection (a) to be paid to the city for a city-sponsored special event may be waived by city council resolution."

SECTION 7. That Section 42A-13, "Denial or Revocation," of Article II, "Special Event Permits," of CHAPTER 42A, "SPECIAL EVENTS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 42A-13. DENIAL OR REVOCATION.

(a) The special event manager shall deny a special event permit if:

(1) a special event permit has been granted for another special event at the same place and time;

(2) an established special event is customarily held at the same place and time as the proposed special event;

(3) the proposed special event will occupy any part of a freeway, expressway, or tollway;

(4) the proposed special event will unreasonably disrupt the orderly flow of traffic, and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;

(5) the applicant fails to adequately provide for:

(A) the protection of special event participants and spectators;

(B) maintenance of public order in and around the special event location;

(C) security, crowd control, or traffic control, taking into consideration the size of the special event;

(D) emergency vehicle access and the provision of emergency medical services and personnel; or

(E) portable restroom facilities for the special event as required by Section 42A-12.1.

(6) the applicant fails to comply with or the proposed special event will violate a city ordinance or other applicable law, unless the prohibited conduct or activity would be allowed under this chapter;

(7) the applicant makes a false statement of material fact on an application for a special event permit or fails to properly complete an application for a special event permit;

(8) the applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by another city ordinance or other applicable law for the conduct of all activities included as part of the special event;

(9) the applicant has had a special event permit revoked within the preceding 14 months;

(10) the applicant has committed, within the preceding 14 months, two or more violations of a provision of a special event permit or this chapter;

(11) the applicant fails to pay any outstanding fees assessed under Section 42A-8 of this chapter for the proposed special event or for a past special event;

(12) the applicant has conducted or sponsored one or more special events within the city on at least 60 days of the same calendar year during which the proposed special event is to be held, except that this 60-day limitation does not apply to a special event that:

(A) involves a commercial movie production; or

(B) is being conducted at the Dallas Farmers Market in compliance with the market's agreements and covenants with the city;

(13) the chief of the police department, the chief of the fire-rescue department, or the special event manager determines that the special event would pose a serious threat to the public health, safety, or welfare;

(14) the applicant or any other person responsible for the conduct or sponsorship of the special event is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or other person;

(15) the applicant has a history of conducting or sponsoring special events in a disorderly, unsafe, unsanitary, or fiscally irresponsible manner;

(16) an event has been previously scheduled for the same time on property described in Section 42A-5(1) that is adjacent to the location of the proposed special event; or

(17) the applicant, if it is a corporation, fails to provide copies of a current certificate of account status and current certificate of existence as required by Section 42A-7(b)(14).

(b) The special event manager shall revoke a special event permit if:

(1) the applicant fails to comply with or the special event is in violation of any provision of the special event permit, a city ordinance, or any other applicable law;

(2) the permit holder made a false statement of material fact on an application for a special event permit or failed to properly complete an application for a special event permit;

(3) the chief of the police department, the chief of the fire-rescue department, or the special event manager determines that the special event poses a serious threat to the public health, safety, or welfare;

(4) the permit holder failed to pay any outstanding fees assessed under Section 42A-8 of this chapter for the proposed special event or for a past special event;

(5) the permit holder or any other person responsible for the conduct or sponsorship of the special event is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the permit holder or other person; or

(6) the permit holder, if it is a corporation, failed to provide copies of a current certificate of account status and current certificate of existence as required by Section 42A-7(b)(14)."

SECTION 8. That CHAPTER 29, "MUNICIPAL PRODUCE MARKET," composed of Sections 29-1 through 29-32, of the Dallas City Code, as amended, is repealed.

SECTION 9. That, notwithstanding any provision to the contrary contained in former CHAPTER 29 of the Dallas City Code (prior to its repeal by this ordinance), any monthly dealer's license issued by the city under former CHAPTER 29 will expire on the effective date of this ordinance.

SECTION 10. That, unless specifically provided otherwise by this ordinance, a person violating a provision of this ordinance governing fire safety, zoning, or public health and sanitation, including dumping of refuse, is, upon conviction, punishable by a fine not to exceed \$2,000 and that a person violating any other provision of this ordinance is, upon conviction, punishable by a fine not to exceed \$500.

SECTION 11. That CHAPTERS 29A and 42A of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law (including CHAPTER 29, which is repealed by this ordinance) is continued in effect for that purpose.

SECTION 12. 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 13. That this ordinance will take effect at 6:00 p.m. on May 31, 2013, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By


Assistant City Attorney

Passed

MAY 22 2013

LC/DCC/00539A