

5/24/13

ORDINANCE NO. 29023

An ordinance amending Article XII of CHAPTER 50, "CONSUMER AFFAIRS," Section 51A-1.104 of CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," and Section 306 of CHAPTER 52, "ADMINISTRATIVE PROCEDURES FOR THE CONSTRUCTION CODES," of the Dallas City Code, as amended; defining terms; providing for the licensing, operation, and regulation of street vendors; requiring identification badges for street vendors and their agents; establishing license and badge fees; establishing dress and conduct standards for street vendors; allowing vending on private property without a certificate of occupancy if the vendor possesses a mobile food establishment permit or a CBD concession license and has the property owner's consent; making certain semantic, grammatical, and structural changes; providing transitional provisions; providing a penalty of not less than \$25 or more than \$500 for a violation of Chapter 50 and a penalty of not more than \$2,000 for a violation of Chapter 51A or Chapter 52; 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 Article XII, "Street Vendors," of CHAPTER 50, "CONSUMER AFFAIRS," of the Dallas City Code, as amended, is amended to read as follows:

“ARTICLE XII.**STREET VENDORS.****Division 1. In General.****SEC. 50-152. DECLARATION OF POLICY.**

It is the policy of the city to promote the protection of the public health, safety, and welfare by the regulation of street [itinerant] vendors operating inside the city. The provisions of this article are to be construed, according to the fair import of their terms, to effect this policy.

SEC. 50-153. GENERAL AUTHORITY AND DUTY OF THE DIRECTOR.

The director [~~or an officer or employee designated by the director,~~] shall implement and enforce this article. The director may prescribe rules and regulations governing the conduct of street [itinerant] vendors not inconsistent with the provisions of this article, including, but not limited to, the designation of zones and sites from which street [itinerant] vendors may operate. [~~The director may appoint advisory committees to assist him in performing his duties under this article.~~]

SEC. 50-154. AUTHORITY TO INSPECT.

The director, any representative of the city health officer or environmental health officer, or a peace officer may inspect any street vendor and the business procedure of a street vendor operating under this article to determine whether the vendor is complying with this article, regulations established under this article, and any other applicable city ordinance or state or federal law.

SEC. 50-155. OFFENSES; PENALTIES.

(a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

(b) An offense under this article is punishable by a fine of not less than \$25 or more than \$500, except that a second or subsequent conviction for the same offense within a period of less than one year from the first conviction is punishable by a fine of not less than \$100 or more than \$500.

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

(d) The penalties provided for in Subsection (b) are in addition to any other enforcement remedies and penalties that the city may have under city ordinances and state law. Prosecution for an offense under this article does not prevent the use of other administrative enforcement remedies or procedures applicable to the conduct involved in the offense.

SEC. 50-156 [454] ARTICLE CUMULATIVE.

The provisions of this article and other city ordinances are cumulative law, and this chapter does not prevent enforcement of another city ordinance that regulates an area covered by this article and is otherwise applicable.

SEC. 50-157 [455]. DEFINITIONS.

In this article:

(1) AGENT means any person employed by or contracting with:

(A) the holder of a central business district concession license to sell or distribute goods or services [~~products~~] under the license; or

(B) any other street vendor.

(2) ARTS DISTRICT means the area of the city bounded by [~~within~~] Woodall Rogers Freeway on the north, Central Expressway (elevated bypass) [~~Routh Street~~] on the east, Ross Avenue on the south, and St. Paul Street on the west.

(3) CBD CORE DISTRICT means the area of the city contained within the boundaries of the central business district, but that does not include the arts district and the West End district.

(4) CENTRAL BUSINESS DISTRICT (CBD) means the area of the city bounded by [~~within~~] Woodall Rogers Freeway on the north, Central Expressway (elevated bypass) on the east, R. L. Thornton Freeway on the south, and Stemmons Freeway on the west. The central business district includes:

(A) the arts district;

(B) the CBD core district; and

(C) the West End district.

(5) [(4)] COMMERCIAL PRINTED MATTER means any printed or written matter, whether on a sample, device, dodger, circular, leaflet, pamphlet, paper, or booklet, and whether printed, reproduced, or copied, that [~~which~~]:

(A) advertises for sale any merchandise, product, commodity, or service; [~~or~~]

(B) directs attention to a business or commercial establishment or other activity for the purpose of either directly or indirectly promoting sales; [~~or~~]

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(C) directs attention to or advertises a meeting, performance, exhibition, or event, for which an admission fee is charged for the purpose of private gain or profit, unless [~~;- but does not include a meeting, performance, exhibition, or event for which~~] an admission fee is charged or a collection is taken up at the meeting, performance, exhibition, or event only for the purpose of defraying the expenses; or

(D) while containing reading matter other than advertising matter, is predominantly and essentially an advertisement[;] and is distributed or circulated for advertising purposes[;] or for the private benefit and gain of any person so engaged as the advertiser or distributor.

(6) [(5)] DIRECTOR means the director of the department designated by the city manager to enforce and administer this article or the director's authorized representative.

(7) [(6)] FOOD [PRODUCTS] ESTABLISHMENT means a "food [~~products~~] establishment" as defined in Chapter 17 of this code.

(8) GOODS means property of every kind.

(9) LICENSEE means a person issued a CBD concession license under this article.

[(7)] ~~GENERAL SERVICE MOBILE FOOD UNIT means a "general service mobile food unit" as defined in Chapter 17 of this code.~~

(8) ~~HANDCRAFTED GOODS means goods produced or created by the vendor from raw or basic materials. The materials must be changed into a significantly different shape, design, form, or function. This definition includes cut flowers, but does not include food items, beverages, or any other commodity intended for human consumption. Commercially grown, manufactured, or processed goods in their finished form do not constitute "handcrafted goods." The use of a commercially produced item to form a significant part of the good shall cause the good to be nonhandcrafted unless the commercially produced item has been substantially changed in function or character.~~

(9) ~~ITINERANT VENDOR means a person who engages in a business of selling goods or services from any structure or vehicle which is not affixed to the ground or from no structure or vehicle. This definition does not include those persons operating, or employed in the operation of special service vehicles as defined in Chapter 10 of this code or a licensed taxicab, limousine, or motor vehicle tow service.~~

(10) ~~LIMITED SERVICE MOBILE FOOD UNIT means a "limited service mobile food unit" as defined in Chapter 17 of this code.]~~

(10) [(11)] MOBILE FOOD ESTABLISHMENT [~~UNIT~~] means a "mobile food establishment [~~unit~~]" as defined in Chapter 17 of this code.

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(11) [(42)] PERSON means an individual, corporation, association, or other legal entity.

(12) [(43)] PUBLIC PROPERTY means any property open or devoted to public use or owned by the city, including, but not limited to, sidewalks, streets, parkways, or esplanades.

(13) SERVICES means any work done for the benefit of another.

(14) STREET VENDOR or VENDOR means a person who, personally or through an agent, engages in a business of selling or offering for sale goods or services from any structure or vehicle that is not affixed to the ground or from no structure or vehicle. The term does not include any person operating, or employed in the operation of, a licensed taxicab, limousine, bus, shuttle, non-motorized passenger transport vehicle, or motor vehicle tow service.

(15) [(44)] VEHICLE means every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

(16) [(45)] WEST END [WAREHOUSE] DISTRICT means the area of the city bounded by [within] Woodall Rogers Freeway on the north; Lamar Street on the east; the MKT railroad tracks on the west; and a southern boundary consisting of and extending along Commerce Street from Lamar Street west to Austin Street, then along Austin Street north to Main Street, then along Main Street west to the MKT railroad tracks.

Division 2. Vending on Public Property.

SEC. 50-158 [456]. VENDORS ON PUBLIC PROPERTY.

(a) A person commits an offense if the person [he], either personally or through an agent, occupies public property in the city for the purpose of selling, distributing, or offering for sale services or goods, including, but not limited to, food, drinks, flowers, plants, tickets, or souvenirs.

(b) It is a defense to prosecution under this section that the person selling, distributing, or offering for sale services or goods:

(1) is doing so in connection with the transaction of official government business;

(2) is doing so by authority of a contract with the city to operate a concession on designated areas of public property;

(3) is selling, distributing, or offering for sale only periodicals from a coin-operated machine by authority of a license to operate the machine;

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(4) is selling, distributing, or offering for sale goods or services from a vehicle by authority of and in compliance with a CBD concession license ~~[and location permit]~~ as provided for in this article;

(5) is selling, distributing, or offering for sale vegetables, produce, or other perishable commodities at the Dallas Farmers Market (as defined in Section 29A-2 of this code), ~~[in the area designated as the municipal produce market]~~ in compliance with Chapter 29A of this code and with the market's agreements and covenants with the city;

(6) is selling, distributing, or offering for sale a food or beverage from a mobile food establishment ~~[unit]~~ in accordance with Section 50-159 ~~[156.1]~~ of this code;

(7) is selling, distributing, or offering for sale goods or services as authorized by and in compliance with a special event permit ~~[or a plaza event permit]~~;

(8) is selling, distributing, or offering for sale only printed matter that is not commercial printed matter, including, but not limited to, newspapers and magazines, and the selling, distributing, or offering for sale is not being conducted from machines or other structures that occupy public property;

(9) is operating a vehicle for hire;

(10) is selling, distributing, offering for sale, or delivering the goods or services to a person in a structure or vehicle that is affixed to the ground, or to a person who possesses a special event permit ~~[, a plaza event permit,]~~ or a CBD concession license; or

(11) is not receiving remuneration from the person being given the goods or services ~~[or product]~~, and the person distributing the goods or services does not use any type of vehicle or stand, any part of which touches the ground, when distributing the goods or services, and the method of distribution does not interfere with traffic flow on public streets or sidewalks.

(c) In addition to any enforcement action by a peace officer or the director 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.

SEC. 50-159 ~~[156.1]~~. RESTRICTIONS FOR MOBILE FOOD ESTABLISHMENTS [UNITS].

(a) A mobile food ~~[products]~~ establishment shall not occupy public or private property in the central business district for the purpose of serving, selling, or distributing any food or beverage ~~[from a mobile food unit]~~ unless the establishment is operating under the authority of and in compliance with:

(1) ~~[the establishment possesses]~~ a valid CBD concession license issued under this article ~~[by the director]~~; and

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(2) [he establishment possesses] a valid mobile food establishment [CBD location] permit issued under Chapter 17 of this code [by the director and the unit is being operated at the site described in the permit].

(b) A general service mobile food [products] establishment, as described in Section 17-8.2 of this code, shall not occupy public property located outside the central business district for the purpose of serving, selling, or distributing any food or beverage [from a general service mobile food unit].

(c) It is a defense to prosecution under Subsections (a) and (b) of this section that the mobile food establishment was serving, selling, or distributing a food or beverage as authorized by and in compliance with:

(1) a special event permit issued by the city; or

(2) a contract with the city to operate a concession on designated areas of public property.

(d) A mobile food establishment shall not sell, distribute, or offer for sale any goods or services within two city blocks or 600 feet, whichever is greater, of the grounds of any public, private, parochial, elementary, or secondary school located outside the central business district between the hours of 7:30 a.m. and 4:30 p.m. on days when the school is in session.

Division 3. Vending on Private Property.

SEC. 50-160. VENDORS ON PRIVATE PROPERTY.

(a) A person commits an offense if he occupies any privately-owned property within the city for the purpose of conducting business as a street vendor.

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

(1) the business was authorized by a valid certificate of occupancy or was otherwise specifically allowed under the Dallas Development Code or another city ordinance;

(2) the person was conducting the street vending business in the central business district and:

(A) possessed a valid CBD concession license issued under this article;

(B) possessed a valid mobile food establishment permit issued under Chapter 17 of this code, if the person was a mobile food establishment;

(C) had the written permission of an owner of the private property on which the business was conducted; and

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(D) was not conducting the business operation or using any structure in the business operation in violation of any applicable city ordinance or state or federal law or regulation; or

(3) the person was a mobile food establishment conducting the street vending business outside the central business district and:

(A) possessed a valid mobile food establishment permit issued under Chapter 17 of this code;

(B) had the written permission of an owner of the private property on which the business was conducted; and

(C) was not conducting the business operation or using any structure in the business operation in violation of any applicable city ordinance or state or federal law or regulation.

Division 4. Entertainment in the Central Business District.

SEC. 50-161. ENTERTAINMENT PERFORMANCES IN THE CENTRAL BUSINESS DISTRICT.

(a) A person who engages or wishes to engage solely in providing entertainment performances for the public free of charge in the central business district is not required to obtain a CBD concession license so long as no fees or monies are solicited from the public as remuneration for the entertainment and no goods or services are sold in connection with the performances. Voluntary contributions from members of the public may be accepted. A CBD concession license must be obtained if fees or monies are solicited from the public or if goods or services are sold in connection with the performances.

(b) A person who wishes to provide entertainment in any portion of Stone Place, the public area surrounding Thanksgiving Square, Four-Way Place, or the Bullington Street Mall must obtain a permit from the chief of police as required in Section 31-22 of this code.

Division 5 [2]. Central Business District Concession Licenses [and Permits].

SEC. 50-162 [157]. CENTRAL BUSINESS DISTRICT CONCESSION LICENSE.

(a) Notwithstanding other provisions of this code, the director may issue a central business district [CENTRAL BUSINESS DISTRICT] (CBD) concession license [CONCESSION LICENSE] to enable the holder and the holder's agents to conduct business as street vendors [sell or distribute services or goods, except potted plants, vegetables, or fruits,] on public or private property in the central business district.

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(b) A separate CBD concession license is required for each vending location site from which a person wishes to conduct business as a street vendor on public or private property in the central business district.

(c) The director may not issue a license to authorize the sale or distribution of services or goods on:

- (1) property under the control of the park and recreation board; or
- (2) the premises of the "convention center" or "reunion arena" as defined in Section 43-127 of this code ~~;~~or
- (3) ~~the premises of the municipal produce market as defined in Section 50-38 of this code].~~

~~[SEC. 50-158. — RESERVED.]~~

SEC. 50-163 [459]. LICENSE APPLICATION; INVESTIGATION [ISSUANCE; FEES].

(a) An applicant for a CBD concession license ~~[or a special event permit]~~ shall file with the director a written application upon a form provided for that purpose. A separate application is required for each vending location site from which the applicant wishes to do business as a street vendor. The following information is required in the application:

- (1) The applicant's name, address [Name], and date of birth, and the identifying number from the applicant's driver's license, military identification card, passport, or personal identification certificate [number of applicant].
- (2) The name, address, [Address] and telephone number of the business [establishment].
- (3) The nature, character, and quality of the goods or services to be offered for sale or delivered.
- (4) Proof that the applicant possesses a retail vendor's sales tax permit from the comptroller of the State of Texas, if a sales tax permit is required for the type of proposed operation.
- (5) The nature of the proposed advertising to be done for the business at the proposed location.
- (6) The license [License] number and type of any vehicle that [which] is to be used.
- (7) The nature [Nature] of the business and the method of distributing or providing goods or services [products].

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(8) Proposed vending location sites ~~[locations]~~ for the business ~~(only one of which will be assigned with the license)~~.

(9) Days of the week and hours ~~[Times]~~ requested to vend at the proposed site ~~[be in operation]~~.

(10) The name, address, date of birth, and identifying number from the driver's license, military identification card, passport, or personal identification certificate ~~[Names and addresses]~~ of each ~~[employees or]~~ agent[s] who will be assisting the applicant in the proposed business.

(11) Proof that the applicant possesses all licenses and ~~[or]~~ permits required by this code or any other applicable city ordinance or ~~[by]~~ state or federal law for the operation of the proposed business.

(12) Any other information ~~[which is]~~ required by the director to clarify items on the application.

(b) A licensee shall notify the director of any changes or corrections in the information required by Subsection (a) within 30 days after the need for the change or correction occurs.

(c) When an application has been filed with the director in proper form, the director shall initiate appropriate action to process the application. The director shall make an appropriate investigation of the applicant, which may include, but is not limited to, an inspection of the establishment and operation of the applicant to ensure ~~[insure]~~ compliance with this code and all applicable city ordinances and state and federal laws governing ~~[statutes concerning]~~ the sale and distribution of the goods and services ~~[products]~~.

SEC. 50-164. LICENSE ISSUANCE; FEES; TRANSFERABILITY; VENDING LOCATION SITES; LICENSE EXPIRATION.

(a) The director shall issue a license to the applicant within 30 days after receipt of the application, unless the director ~~[he]~~ finds one or more of the following to be true:

(1) The applicant is under 18 years of age.

(2) All available vending location sites, as designated by the director, are occupied by licensees.

(3) The applicant or applicant's spouse is overdue in ~~[his]~~ payment to the city of taxes, fees, fines, or penalties assessed against ~~[him]~~ or imposed upon the applicant or applicant's spouse ~~[him]~~.

(4) The applicant is physically or mentally incapacitated to an extent that the applicant ~~[he]~~ cannot operate a vending business.

(5) The applicant has failed to answer or falsely answered a question or request for information on the application form provided.

(6) The applicant has failed to provide proof of a license or permit required by this code or any other applicable city ordinance or [by] state or federal law for the operation of the proposed business.

(7) The applicant, or any agent of the applicant ~~[his employees, and agents]~~, individually or cumulatively, has [have] been convicted of two violations of this article, other than the offense of operating a business without a license, within the two years immediately preceding the application. A plea of "guilty" or "no contest" in any court of law, including the municipal court, constitutes a conviction for purposes of this section. The fact that a conviction is being appealed has [shall have] no effect.

(8) The required license fee has not been paid.

(9) The applicant has failed to comply with or the proposed business will violate any applicable law, ordinance, or regulation of the city.

(10) The applicant's business or method of doing business will interfere with traffic flow on public streets or sidewalks.

(11) The applicant has already received the maximum number of licenses to which the applicant is entitled under Subsection (g) of this section.

(b) [(e)] If the director finds that one of the items listed in Subsection (a) [(b)] is true, the director ~~[he]~~ shall deny the application and send to the applicant by certified mail, return receipt requested, a written statement setting forth the reasons for the denial and notifying the applicant of the ~~[his]~~ right to appeal.

(c) [(d)] A CBD concession license must state on its face the name of the person to whom it is granted and the expiration date. A CBD concession license ~~[does not]~~ authorizes the licensee to do business only at a specific vending [any particular] location site, designated by the director, in the central business district. ~~[The director shall issue CBD location permits as provided for in Section 50-159.1 of this code to authorize licensees to do business at designated sites.]~~

(d) [(e)] The annual fee for each ~~[a]~~ CBD concession license is:

(1) \$600 (\$150 for license processing and regulation and \$450 for the use of 40 square feet of public property) to vend entirely or partially on public property, plus \$25 for each square foot of public property over 40 square feet that is contained in the vending location site; and

(2) \$150 to vend on private property only.

~~[(f) (Repealed by Ord. 18702)]~~

(e) [(g)] The fees listed in this section may [shall] not be prorated and are not refundable.

(f) [(h)] A CBD concession license is [licenses are] not transferable in any manner to any person or location other than the one for which it was issued. Only agents listed in the licensee's most recent updated application for a CBD concession license are authorized to operate under the license.

(g) The same vendor, either personally or through an agent, may not simultaneously hold more than a total of 12 CBD concession licenses for vending on public property. Of those 12 licenses, the same vendor may not simultaneously hold more than one in the West End district, one in the arts district, and 10 in the CBD core district.

(h) For purposes of Subsection (g) of this section, an applicant will be considered to be the same vendor if the same sales tax identification number is listed on each license application.

[SEC. 50-159.1. — CENTRAL BUSINESS DISTRICT (CBD) LOCATION PERMITS.]

(a) ~~A CBD concession licensee may receive a maximum of five CBD location permits from the director, in addition to permits issued for the arts and warehouse districts under Subsection (b). Each permit shall authorize the licensee to do business at a particular site in the central business district.]~~

(i) The number and location of vending location sites to be assigned on public property will [shall] be determined by the director[,], based upon the availability of space, the congestion that [which] may result, and other factors related to the public health, safety, and welfare. Each site must have an area of not less than 40 square feet. The director may not authorize or assign on public property:

(1) more than two vending location sites for each side of a block face in the central business district;

(2) a vending location site within 50 feet of another site at which the applicant is licensed to vend;

(3) a vending location site within 100 feet of an existing fixed business that sells, distributes, or offers for sale goods or services similar to those to be sold, distributed, or offered for sale by the applicant, unless the applicant files with the director the written consent of the owner of the existing fixed establishment;

(4) a vending location site within 50 feet of an outdoor patio of an existing fixed food establishment located on the same side of the same block face; or

(5) a vending location site within 1,000 feet of the Dallas Farmers Market, as defined in Section 29A-2 of this code, if the vendor will sell potted plants, fruits, or vegetables.

(j) An applicant [Licensees] may select a vending location site[s] from those available at the time of application in accordance with rules and regulations promulgated by the director. If more than one applicant applies for the same vending location site, the director shall award the site by drawing lots in accordance with rules and regulations promulgated by the director.

~~[(b) — The arts and warehouse districts as defined in Section 50-155 of this code each constitute a "designated site" which may be occupied by any CBD concession licensee who obtains a CBD location permit for the district; however, the total number of location permits to be issued for the districts may be limited by the director based upon the availability of space, the congestion which may result, and other factors related to the public health, safety, and welfare. Separate permits must be obtained for the arts and warehouse districts. Licensees who obtain location permits for the arts and warehouse districts must comply with the requirements of Section 50-161 of this code.~~

~~(e) — The fee for a CBD location permit is based upon the area of the assigned site and the proximity of the site to the core of the central business district, and will be calculated in accordance with the following schedule:~~

<u>Location</u>	<u>Annual Fee</u>
Within CBD Core Area	\$30 per square foot
Outside of CBD Core Area	\$30 per square foot

~~(d) — For purposes of this section, the "CBD core area" is the area of the city within and including the following described boundaries: Point of beginning at the northeast corner of the intersection of Pacific Street and Lamar Street; then along Pacific Avenue (north sidewalk) to Akard Street; then along Akard Street (west sidewalk) to Federal Street; then along Federal Street (north sidewalk) to Pearl Street; then along Pearl Street (west sidewalk) to Pearl Expressway; then along Pearl Expressway (west sidewalk) to Commerce Street; then along Commerce Street (south sidewalk) to Lamar Street; then along Lamar Street (east sidewalk) to the point of beginning.~~

~~(e) — A CBD location permit automatically expires upon failure to pay the required permit fee.]~~

(k) ~~[(f)]~~ A CBD concession license expires one year after the date of issuance. To renew a CBD concession license for the same vending location site, a licensee must file an application with the director and pay all required license fees not more than 60 days or less than 30 days before the license expires. Upon expiration of a CBD concession license [location permit], the licensee [holder] may apply for a new license [permit], but must [he shall then be required to] select a [new] site from those available at the time of application in accordance with rules and regulations promulgated by the director.

~~[(g) — The director shall issue a CBD location permit to a CBD concession licensee upon payment of the required fee, except that the director shall not issue a permit to the licensee if:~~

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(1) ~~the licensee has already received the maximum number of permits to which he is entitled under Subsection (a); or~~

(2) ~~the permit would authorize the licensee to do business at the same site during four different calendar years.~~

(h) ~~The fees listed in this section may be prorated, but are not refundable.~~

(i) ~~CBD location permits are not transferable.]~~

SEC. 50-165. SUSPENSION.

(a) The director may suspend a CBD concession license for not less than 30 days or more than one year if the director determines that:

(1) a violation of this article or any other city ordinance or state or federal law concerning the sale or distribution of goods or services by the licensee or an agent has occurred; or

(2) the licensee or a representative has failed to establish policy and take action to discourage, prevent, or correct violations of this article by the licensee's agents.

(b) The director shall send to the licensee by certified mail, return receipt requested, a written statement of the reasons for the suspension, the date the suspension is to begin, the duration of the suspension, and the licensee's right to appeal. A timely request for appeal by the licensee stays the effect of the suspension unless the director determines that an emergency exists.

(c) For purposes of this section, an emergency exists if the director determines that a violation has occurred and constitutes an imminent and serious threat to the public health or safety. In case of an emergency, the director may order the licensee or any representative or agent to correct the violation immediately or cease business operations to the extent the director determines is necessary to abate the threat until the violation is corrected.

SEC. 50-166. REVOCATION.

(a) The director shall revoke a license issued under this article if the director determines that:

(1) the licensee or an agent, individually or cumulatively, has been convicted in any court of two violations of this article or any other city ordinance or state or federal law concerning the sale or distribution of goods or services within a 12-month period; the fact that a conviction is being appealed has no effect;

(2) the licensee has given false or misleading information of a material nature or has withheld vital information on the application or in any hearing concerning the application or license;

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(3) the licensee or an agent has intentionally or knowingly impeded a lawful inspection by the director, the director's authorized representative, or any representative of another department who has the authority to inspect the licensee and the licensee's agents and business procedures;

(4) a cause for suspension under Section 50-165 occurs and the license has been suspended within the preceding 12 months;

(5) the vending location site for which the license was issued is not being used for street vending purposes; or

(6) the conduct of the business at the vending location site for which the license was issued endangers the public health, safety, or welfare.

(b) The director shall send to the licensee by certified mail, return receipt requested, a written statement setting forth the reasons for the revocation and notifying the licensee of the right to appeal.

(c) If the director revokes a license, the fee already paid for the license will be forfeited. A person whose license has been revoked under this section may not apply for a new license for one year after the date the revocation took effect.

SEC. 50-167. APPEAL.

If the director denies the issuance or renewal of a license, suspends or revokes a license, or orders the cessation of any part of the business operation conducted under the license, the aggrieved party may appeal the decision of the director to a permit and license appeal board in accordance with Section 2-96 of this code. The filing of an appeal stays the action of the director in suspending or revoking a license or any part of the business operation being conducted under the license until the permit and license appeal board makes a final decision unless the director determines that operation of the facility or business in violation of the suspension or revocation constitutes an imminent and serious threat to the public health or safety, in which case the director shall take or cause to be taken such action as is necessary to immediately enforce the suspension, revocation, or order.

Division 6. Miscellaneous Requirements for Street Vendors in the Central Business District.

SEC. 50-168. IDENTIFICATION BADGES REQUIRED.

(a) An identification badge must be conspicuously displayed on the clothing of the upper body of each licensee and agent of a licensee at all times when selling, distributing, or offering for sale goods or services on public or private property in the central business district. A licensee or an agent of a licensee shall allow the director or a peace officer to examine the identification badge upon request.

(b) An identification badge must be obtained from the director and must include the following:

(1) The name of the person to whom the badge is issued and a photograph clearly depicting the person's facial features.

(2) The name and license number of the licensee under whose CBD concession license the person is conducting vending activities.

(3) The vending location site at which the person is authorized to conduct vending activities.

(4) A description of the type of goods or services the person is authorized to sell, distribute, or offer for sale at the site.

(5) The number and expiration date of the identification badge.

(c) An identification badge expires on whichever of the following dates occurs first:

(1) the date of revocation or expiration of the CBD concession license under which the badge is authorized; or

(2) the date the person to whom the badge is issued is no longer an agent of the licensee.

(d) An identification badge is not transferable from one person to another or from one license to another.

(e) One identification badge will be included with each issuance or renewal of a CBD concession license. The fee for each additional new or renewal identification badge is \$20. The fee for replacement of an identification badge that is lost, damaged, or stolen is \$5.

(f) Within 10 days after terminating an agent, a licensee shall collect and surrender to the director the agent's identification badge.

[SEC. 50-159.2. ENTERTAINMENT PERFORMANCES IN THE CENTRAL BUSINESS DISTRICT.

~~(a) A person who engages or wishes to engage solely in providing entertainment performances for the public free of charge in the central business district is not required to obtain a CBD concession license or location permit so long as no fees or monies are solicited from the public as remuneration for the entertainment and no goods or services are sold in connection with the performances. Voluntary contributions from members of the public may be accepted. A CBD concession license and location permit must be obtained if fees or monies are solicited from the public or if goods or services are sold in connection with the performances.~~

(b) ~~— A person who wishes to provide entertainment in any portion of Stone Place, the public area surrounding Thanksgiving Square, Four Way Place, or the Bullington Street Mall must obtain a permit from the chief of police as required in Section 31-22 of this code.]~~

SEC. 50-169 [160]. DUTIES AND CONDUCT OF STREET VENDORS.

A person who, either personally or through an agent, sells[ing], distributes[ing], or offers[ing] for sale[;] goods or services on public or private property in the central business district shall:

(1) possess a license and an identification badge authorizing the activity as provided for in this article [~~chapter~~];

(2) ~~[not use a vehicle that exceeds six feet in length, three feet in width (exclusive of wheels), or four feet in height from which to sell, or distribute, or offer the goods or services;~~

(3)] ~~situate any vehicle used in connection with the sale or distribution of goods and services so that it does not occupy any portion of a public roadway [in the central business district];~~

(3) [(4)] if vending on public property, operate the business so as to offer the least physical or visible obstruction to pedestrian and vehicular traffic, including, but not limited to, refraining from placing boxes on any public street[s] or sidewalk[s];

(4) [(5)] not enter a public roadway to solicit or conduct a sale;

(5) [(6)] not sell, distribute, or offer for sale goods or services [any item] to a person on a public roadway;

(6) if vending on public property, stay within five feet of the vendor's vehicle except for periodic breaks not to exceed 10 minutes and for emergencies;

(7) ~~[not place any signs or other advertising devices on public property other than those signs affixed to the vehicle or equipment and not extending beyond the basic dimension of the vehicle or equipment;~~

(8)] take reasonable steps[, including the provision of receptacles,] to keep the area around which the business is being conducted free from litter and waste, including, but not limited to:

(A) maintaining a waste receptacle for public use on the vending vehicle;

(B) maintaining the vending location site in a clean and hazard-free condition;

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(C) at the close of business each day, collecting and disposing of all litter and waste accumulating on the vending location site or within 15 feet of any vending vehicle; and

(D) not disposing of liquid waste or grease on the sidewalks, streets, grounds, tree pits, city trash receptacles, or other public property;

(8) [(9)] if vending on public property, operate the business only during [between] the following times [hours of 6:00 a.m. and 8:00 p.m.], unless special operating hours are approved by the director;

(A) 6:00 a.m. to 10:00 p.m., Monday through Thursday;

(B) 8:00 a.m. to midnight, Friday and Saturday; and

(C) 10:00 a.m. to 10:00 p.m., Sunday;

(9) [(10)] sell, distribute, or offer for sale[;] only those goods or services that [which] the director has approved as not endangering the public health, safety, or welfare; the [- The] director may withdraw a [his] previous approval of any goods or services by serving a written notice upon the seller or distributor to cease selling, distributing, or offering for sale the goods or services within 10 days;

(10) [(11)] remove any equipment, sales aids, or vehicle from public property at the close of operation each day;

(11) not smoke while conducting vending activities at the vending location site;

(12) comply with the noise regulations set forth in Chapter 30 of this code [not sell, distribute, or offer for sale, any products or services within two city blocks or 600 feet, whichever is greater, of the grounds of any public, private, parochial, elementary, or secondary school between the hours of 7:30 a.m. and 4:30 p.m. on days when the school is in session];

(13) [not make or cause to be made any loud and raucous noise which renders the enjoyment of life or property uncomfortable or interferes with the public peace and comfort;

(14)] not do business [in the central business district] except on a vending location site designated by the director[. The director may revoke a CBD location permit or withdraw his previous designation of a site if he determines that conducting business at the site endangers the public health, safety, or welfare. Before revoking a CBD location permit, the director shall serve a written notice upon the CBD concession licensee to cease selling, distributing, or offering for sale goods or services at the site within 10 days];

(14) [(15)] allow an inspection of the [his] business operation as authorized in this article;

(15) [(46)] comply with all rules and regulations promulgated by the director under this article;

(16) [(47)] post the applicable license[s] or ~~[permits, or]~~ copy[ies] of the license[s ~~or permits,~~] in a conspicuous place on the vehicle ~~[a unit]~~ from which ~~[he is selling]~~ goods or services are being sold, distributed, or offered for sale so that it may be easily read at any time[;] or, if the person does not use a vehicle ~~[unit]~~ from which to sell goods or services, display the license or copy ~~[permit]~~ on the ~~[his]~~ person's clothing at any time ~~[he is selling, distributing, or offering for sale]~~ the goods or services are being sold, distributed, or offered for sale on public or private property;

(17) [(48)] establish policy and take action to discourage, prevent, or correct violations of this chapter by ~~[employees or]~~ agents;

(18) [(49)] prohibit an ~~[his employee or]~~ agent from operating under a CBD concession license ~~[-, location permit, or special event permit]~~ if the person knows or has reasonable cause to suspect that the ~~[employee or]~~ agent does not have a valid identification badge issued under this article or has otherwise failed to comply with this article ~~[chapter]~~, the rules and regulations established by the director, or any other applicable city ordinance or state or federal law; and

(19) [(20)] comply with all ~~[any]~~ other applicable laws, ordinances, or regulations of the city.

SEC. 50-170. DRESS STANDARDS FOR STREET VENDORS.

Each licensee shall have company dress standards for vendors employed by or contracting with the licensee. These standards must be kept on file with the director and must include the following:

(1) A vendor may not wear:

(A) cut-offs;

(B) apparel with offensive or suggestive language, pictures, or symbols;

(C) tank tops or halter tops; or

(D) outer apparel made of fishnet or undergarment material.

(2) Shoes must be worn at all times in the manner for which they were designed.

(3) A vendor and the vendor's clothing must conform to basic standards of hygiene and be neat, clean, and sanitary at all times.

(4) A vendor's hair must be clean and neatly groomed. Facial hair must be neatly trimmed.

SEC. 50-171. VEHICLES AND EQUIPMENT.

(a) Any non-motorized vehicle used by a street vendor to sell, distribute, or offer for sale goods or services in the central business district must:

(1) have operable wheels;

(2) not exceed six feet in length (including any handles measuring six inches or more in length and any permanently attached trailer hitches), three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels);

(3) not occupy any portion of a public roadway in the central business district;

(4) not be attached to any tree, utility pole, sign pole, streetscape, or public property; and

(5) not be stored, parked, or left overnight on any street, sidewalk, public parking space, or other public property.

(b) All equipment required for operation of the business and all goods being offered for sale must be confined to or within the vehicle or, if no vehicle is used, the vending location site.

(c) Only one small stool or chair is allowed at the vending location site for the vendor. No seating may be provided for customers.

(d) Any umbrella on a vehicle must be properly secured and must be removed during high winds.

(e) No electrical power cords are allowed to be used by a vendor on public property.

SEC. 50-172. SIGNS AND ADVERTISING DEVICES.

(a) A vendor shall not place any sign or other advertising device on public property other than those signs affixed to the vehicle or equipment and not extending beyond the basic dimension of the vehicle or equipment.

(b) A vendor shall prominently display a sign that contains city of Dallas contact information to which customers may report service or health concerns or complaints.

(c) No free standing signs are permitted as part of the vending operation.

(d) Prices for goods or services must be conspicuously displayed on the vending vehicle, the individual items offered for sale, or the display surface or container.

[SEC. 50-161. ~~VENDING IN ARTS AND THE WAREHOUSE DISTRICTS.~~

~~A person selling, distributing, or offering for sale, goods or services in the arts or warehouse district shall:~~

~~(1) — comply with all rules and regulations applicable to street vendors in the city;~~

~~(2) — not occupy a location within the district for more than two consecutive hours;~~

~~(3) — upon moving from a location, relocate a minimum of 50 feet from the previous location;~~

~~(4) — not occupy a particular location for more than a total of four hours on any day; and~~

~~(5) — comply with the instructions of the director or his assistants concerning the particular locations from which he may do business within the district.~~

SEC. 50-162. ~~OFFENSES.~~

~~(a) — A person commits an offense if he fails to comply with or violates any of the requirements of this article. A culpable mental state is not required for the commission of an offense under this article.~~

~~(b) — An offense committed under this article is punishable by a fine of not less than \$25 nor more than \$500; however, a second or subsequent conviction for the same offense within a period of less than one year from the first conviction is punishable by a fine of not less than \$100 nor more than \$500.~~

~~(c) — If an enforcing officer designated by the director has probable cause to believe that a person has committed an offense under this article, the enforcing officer may arrest the person or issue him a written citation requiring him to appear in municipal court to answer the charge against him. If, upon request by the enforcing officer, the person believed by the officer to have committed the offense or an owner, officer, manager, or other person in charge of the business believed by the officer to have violated this article, refuses to promise to appear in court by signing the citation, the enforcing officer shall arrest the person or cause him to be arrested. The citation must include the section of the code violated, the name and location of the business, identification and date of offense alleged, date of citation, and time and place of appearance in court. The officer issuing a citation shall sign it.~~

~~(d) — Prosecution for an offense does not prevent the use of other administrative enforcement remedies or procedures applicable to the conduct involved in the offense.~~

SEC. 50-163. ~~————~~ AUTHORITY TO INSPECT.

~~The director or any representative of the city health officer or environmental health officer may inspect a vendor and his business procedure operating under this chapter to determine whether the vendor is complying with this article, regulations established under this article, or other applicable law.~~

SEC. 50-164. ~~————~~ SUSPENSION.

~~(a) — The director may suspend a CBD concession license or CBD location permit issued under this article for not less than 30 days nor more than one year if he determines that:~~

~~(1) — a violation of this code or any other law concerning the sale or distribution of goods or services by the licensee or his employee or agent has occurred; or~~

~~(2) — the licensee or his representative has failed to establish policy and take action to discourage, prevent, or correct violations of this article by employees or agents.~~

~~(b) — The director shall send to the licensee by certified mail, return receipt requested, a written statement setting forth the reasons for the suspension and notifying the licensee of his right to appeal. A timely request for appeal by the licensee stays the effect of the suspension unless the director determines that an emergency exists.~~

~~(c) — For the purposes of this section, an emergency exists if the director determines that a violation has occurred and constitutes an imminent and serious threat to the public health or safety. In case of an emergency the director may order the licensee or his representative to correct the violation immediately or cease business operations to the extent the director determines is necessary to abate the threat until the violation is corrected.~~

SEC. 50-165. ~~————~~ REVOCATION.

~~(a) — The director shall revoke a license or permit issued under this article if he determines that:~~

~~(1) — the licensee or permittee, or his employees and agents, individually or cumulatively, have been convicted in any court of two violations of this code or any other law concerning the sale or distribution of goods or services within a 12 month period. The fact that a conviction is being appealed shall have no effect;~~

~~(2) — the licensee or permittee has given false or misleading information or has withheld vital information in the material submitted to the director during the application process;~~

~~(3) — the licensee or permittee, or his employee or agent has intentionally or knowingly impeded a lawful inspection by the director, his authorized representative or any representative of another department who has the authority to inspect the licensee or permittee and his business procedure; or~~

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(4) ~~— a cause for suspension under Section 50-164 occurs and the license or permit has been suspended within the preceding 12 months.~~

(b) ~~— The director shall revoke a CBD location permit for a particular site if he determines that the site is not being used for street vending purposes.~~

(c) ~~— The director shall send to the licensee or permittee by certified mail, return receipt requested, a written statement setting forth the reasons for the revocation and notifying the licensee or permittee of his right to appeal.~~

(d) ~~— If the director revokes a license or permit, the fee already paid for the license or permit shall be forfeited. A person whose license has been revoked under this section may not apply for a new license for a period of one year from the date the revocation took effect.~~

SEC. 50-166. ~~RESERVED.~~

SEC. 50-167. ~~APPEAL.~~

~~If the director denies the issuance of a license or permit, suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may appeal the decision of the director to a permit and license appeal board in accordance with Section 2-96 of this code. The filing of an appeal stays the action of the director in suspending or revoking a license or permit or any part of the business operation being conducted under the license or permit until the permit and license appeal board makes a final decision unless the director determines that operation of the facility in violation of the suspension or revocation constitutes an imminent and serious threat to the public health or safety, in which case the director shall take or cause to be taken such action as is necessary to immediately enforce the suspension, revocation, or order.~~

Division 3. ~~Vending on Private Property.~~

SEC. 50-168. ~~CERTIFICATE OF OCCUPANCY.~~

(a) ~~— No person shall occupy any privately owned property, his own or another's, for the purpose of vending goods or services within the city, unless he possesses a certificate of occupancy issued by the building official or is conducting his business on the property in a structure which does not violate any code of the city, including, but not limited to, the zoning, building, or plumbing code of the city.~~

(b) ~~— Holders of certificates of occupancy shall comply with all the applicable rules and regulations provided for in the Dallas Building Code. If a holder of a certificate of occupancy fails to comply with any of the applicable regulations provided in the building code, his certificate of occupancy shall be revoked by the building official.~~

(c) ~~— It is a defense to prosecution under this section that the person:~~

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(1) ~~is conducting an occasional sale, commonly known as a garage sale, as defined in the Dallas Development Code;~~

(2) ~~possesses a mobile food unit permit issued under Chapter 17 of this code or a vendor's permit for dairy food products in compliance with Chapter 26 of this code, and~~

(A) ~~the vendor has the written permission of an owner of the private property on which the business is conducted;~~

(B) ~~the vendor's business operation does not or will not violate any applicable laws or regulations; and~~

(C) ~~the vendor does not use in the conduct of his business any structure affixed to the ground which violates any code of the city, including, but not limited to, the building or plumbing code of the city; or~~

(3) ~~possesses a CBD concession license, as provided for in this chapter, and:~~

(A) ~~the vendor has the written permission of an owner of the private property on which the business is conducted;~~

(B) ~~the vendor's business operation does not or will not violate any applicable laws or regulations; and~~

(C) ~~the vendor does not use in the conduct of his business any structure affixed to the ground which violates any code of the city, including, but not limited to, the building or plumbing code of the city.~~

(d) ~~For purposes of this section, BUILDING OFFICIAL means the person so designated under Section 2-71 of this code.]"~~

SECTION 2. That Section 51A-1.104, "Certificate of Occupancy," of Article I, "General Provisions," of CHAPTER 51A, "DALLAS DEVELOPMENT CODE: ORDINANCE NO. 19455, AS AMENDED," of the Dallas City Code is amended to read as follows:

"SEC. 51A-1.104. CERTIFICATE OF OCCUPANCY.

Except as provided in Section 306.1, "Use or Occupancy," of Chapter 52, "Administrative Procedures for the Construction Codes," [for single family, handicapped group dwelling unit, and duplex uses,] a person shall not use or occupy or change the use or occupancy of a building, a portion of a building, or land without obtaining a certificate of occupancy from the building official in compliance with Section 306, "Certificate of Occupancy," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code."

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SECTION 3. That Subsection 306.1, "Use or Occupancy," of Section 306, "Certificate of Occupancy," of Subchapter 3, "Permits and Inspections," of CHAPTER 52, "ADMINISTRATIVE PROCEDURES FOR THE CONSTRUCTION CODES," of the Dallas City Code is amended to read as follows:

"306.1 Use or occupancy. No structure or land shall be used or occupied, no change in the existing occupancy classification, zoning use, or the tenant or occupant of a structure or portion of a structure shall be made, and no floor area increases or decreases of any existing tenancy area of a structure shall be used or occupied, until the building official has issued a certificate of occupancy and a fee has been paid as required in Section 303 of this chapter.

Exception: No certificate of occupancy is required for:

1. single family uses;₁[₇]
2. handicapped group dwelling unit uses;₁[₇]
3. duplex uses;₁[₇]
4. U occupancies accessory to single-family or duplex uses;₁[₇and]
5. tenant changes to individual dwelling units in Group R, Division 2 apartment houses;
and[₇]
6. a vendor who operates a business on private property and possesses a valid mobile food establishment permit issued under Chapter 17 of the *Dallas City Code* or a valid CBD concession license issued under Chapter 50 of the *Dallas City Code*, and:
 - 6.1. has the written permission of the owner of the private property on which the business is conducted; and
 - 6.2. whose business operation complies with the codes, the *Dallas Development Code*, other city ordinances, rules, and regulations, and any county, state, or federal laws or regulations."

SECTION 4. That any person who, on the passage date of this ordinance, holds a valid central business district (CBD) concession license and a valid location permit is not required to obtain a new CBD concession license or change vending location sites (including roaming sites in the Arts and West End [formerly Warehouse] Districts) under this ordinance until the expiration, revocation, or other termination of the person's current central business district

concession license or location permit, at which time the person must obtain a CBD concession license for each separate vending location site as required by this ordinance, and each vending location site must comply with the spacing requirements and other requirements of this ordinance. A current holder of a valid CBD concession license and valid location permit shall comply with all other provisions of this ordinance on the date the ordinance takes effect, including the requirements for identification badges. A current vendor lawfully operating in the Arts District or West End District (formerly the Warehouse District) must continue to:

- (1) comply with all rules and regulations applicable to street vendors in the city;
- (2) not occupy a location within the district for more than two consecutive hours;
- (3) upon moving from a location, relocate a minimum of 50 feet from the previous location;
- (4) not occupy a particular location for more than a total of four hours on any day; and
- (5) comply with the instructions of the director or the director's representatives concerning the particular locations from which the vendor may do business within the district.

SECTION 5. That a person violating a provision of this ordinance (as it relates to Chapters 51A and 52), upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 6. That CHAPTERS 50, 51A, and 52 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 laws are continued in effect for that purpose.

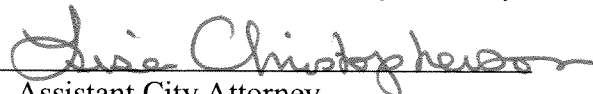
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SECTION 7. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 8. That this ordinance will take effect on October 1, 2013, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By 
Assistant City Attorney

Passed JUN 12 2013

LC/DCC/00517A