



# CITY OF PLANO COUNCIL AGENDA ITEM

|  |                                  |                         |  |               |
|--|----------------------------------|-------------------------|--|---------------|
| <b>CITY SECRETARY'S USE ONLY</b>   |                                  |                         |  |               |
| <input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory   |                                  |                         |  |               |
| Council Meeting Date:  |                                  | 05/12/14                |  |               |
| Department:  |                                  | Building Inspections    |  |               |
| Department Head  |                                  | Selso Mata              |  |               |
| Agenda Coordinator (include phone #): <b>Diana Casady #5993</b>  |                                  |                         |  |               |
| <b>CAPTION</b>   |                                  |                         |  |               |
| <p><b>An Ordinance of the City Council of the City of Plano, Texas, amending Section 11-141 Definitions and Section 11-156 Itinerant Vendors, of Article IV Peddlers and Solicitors, of Chapter 11 Licenses and Business Regulations, of the Code of Ordinances of the City of Plano to amend the definition for itinerant vendor, to establish definitions for carnival and carnival operator, to increase the permit fee for itinerant vendors, and to establish regulations for temporary carnivals on private property within the City of Plano; and providing a repealer clause, a severability clause; a savings clause, a penalty clause, a publication clause and an effective date.</b></p> |                                  |                         |  |               |
| <b>FINANCIAL SUMMARY</b>   |                                  |                         |  |               |
| <input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP  |                                  |                         |  |               |
| FISCAL YEAR: <b>2013-14</b>  | <b>Prior Year<br/>(CIP Only)</b> | <b>Current<br/>Year</b> | <b>Future<br/>Years</b>                            | <b>TOTALS</b> |
| Budget   | 0                                | 0                       | 0  | <b>0</b>      |
| Encumbered/Expended Amount   | 0                                | 0                       | 0  | <b>0</b>      |
| This Item  | 0                                | 0                       | 0  | <b>0</b>      |
| BALANCE  | 0                                | 0                       | 0  | <b>0</b>      |
| <b>FUND(S):    N/A</b>   |                                  |                         |  |               |
| <p><b>COMMENTS:</b> This item has no fiscal impact.</p> <p>STRATEGIC PLAN GOAL: Amending Section 11-141 Definitions and Section 11-156 Itinerant Vendors, to amend the definition for itinerant vendor and to establish definitions for carnival and carnival operator of the Code of Ordinances of the City of Plano relates to the City's Goal of a Safe Large City and Great Neighborhoods - 1st Choice to live.</p>  |                                  |                         |  |               |
| <b>SUMMARY OF ITEM</b>   |                                  |                         |  |               |
| <p>Approval of this Ordinance will authorize revisions to the Itinerant Vendor Ordinance modifying regulations for temporary businesses, and establishing regulations for temporary carnivals on private property.</p>   |                                  |                         |  |               |
| List of Supporting Documents:<br>Memo from Building Official   |                                  |                         | Other Departments, Boards, Commissions or Agencies |               |

Date: May 1, 2014

To: Bruce D. Glasscock, City Manager  
Frank Turner, Deputy City Manager

From: Selso Mata, Chief Building Official

Subject: Itinerant Vendor / Carnivals

Recently carnivals were evaluated as an allowed use by zoning with a permit required as an Itinerant Vendor.

Upon further review, staff determined that regulations for temporary businesses operating within the City as an Itinerant Vendor need to be modified as do carnivals in order to establish definitions for carnival and carnival operators. An increase in permit fees for itinerant vendors and establishing regulations for temporary carnivals on private property was also found necessary to promote the public health, safety, and welfare of the community.

Please let me know if you need additional information.

**An Ordinance of the City Council of the City of Plano, Texas, amending Section 11-141 Definitions and Section 11-156 Itinerant Vendors, of Article IV Peddlers and Solicitors, of Chapter 11 Licenses and Business Regulations, of the Code of Ordinances of the City of Plano to amend the definition for itinerant vendor, to establish definitions for carnival and carnival operator, to increase the permit fee for itinerant vendors, and to establish regulations for temporary carnivals on private property within the City of Plano; and providing a repealer clause, a severability clause; a savings clause, a penalty clause, a publication clause and an effective date.**

**WHEREAS**, on November 3, 2002, the City Council of the City of Plano established regulations for itinerant vendors operating temporary businesses on private property within the City; and

**WHEREAS**, City staff has determined that the regulations for temporary businesses operating within the City need to be modified to amend the definition for itinerant vendor, to establish definitions for carnival and carnival operator, to increase the permit fee for itinerant vendors, and to establish regulations for temporary carnivals on private property to promote the public health, safety, and welfare of the community; and

**WHEREAS**, upon full review of all matters attendant and related thereto, the City Council finds that amending Article IV Peddlers and Solicitors to make the aforementioned additions and amendments is in the best interest of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The heading in Article IV, Peddlers and Solicitors, of Chapter 11, Licenses and Business Regulations, of the Code of Ordinances of the City of Plano is hereby amended to read in its entirety as follows:

**“ARTICLE IV. PEDDLERS, SOLICITORS, ITINERANT VENDORS, CARNIVALS, AND JOB PLACEMENT ACTIVITIES”**

**Section II.** Section 11-141, Definitions, of Chapter 11, Licenses and Business Regulations, of the Code of Ordinances of the City of Plano is hereby amended to add definitions for Carnival and Carnival Operator to be inserted alphabetically into the existing list of definitions and to revise the definition for Itinerant Vendor to read as follows:

**“DIVISION 1. – GENERALLY**

**Sec. 11-141. Definitions.**

*Carnival* means a temporary commercial business located and/or operated on privately owned property, whether improved or unimproved, that is characterized by amusement rides, attractions, games of skill or chance, entertainment, shows, exhibitions,

food vendors and/or a combination thereof including fairs or festivals. Carnival does not include non-commercial, non-profit or charitable amusement events.

*Carnival Operator* means any person or entity who sets up and operates a temporary carnival on privately owned property, whether improved or unimproved, in the City.

*Itinerant vendor* shall mean any person or entity who sets up and operates an occasional business on privately owned property, whether improved or unimproved, in the City, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services. A temporary business is one that continues for forty-five (45) days or less; and, exists whether solicitation is from a stand, vehicle, or freestanding.

Any business that exists more than forty-five (45) days shall be deemed to be a permanent occupancy and is required to obtain a certificate of occupancy from the building inspection department.”

**Section III.** Section 11-156 Itinerant Vendors on Private Property, of Article IV Peddlers and Solicitors, of Chapter 11 Licenses and Business Regulations of the Code of Ordinances of the City of Plano is hereby amended to read in its entirety as follows:

#### **“ DIVISION 4. – ITINERANT VENDORS AND CARNIVALS**

##### **Sec. 11-156. Itinerant Vendors and Carnivals on Private Property**

(a) *Requirements for Itinerant Vendors and Carnivals.* The following requirements shall apply to both itinerant vendor and carnivals:

- (1) A permit is required to operate a temporary business on privately owned property;
- (2) A non-refundable permit fee in the amount of one hundred dollars (\$100.00) is required to be paid to the City upon application;
- (3) Compliance with all City ordinances is required;
- (4) Tents, food, animals, stages, and any allowable temporary structure shall require appropriate City permits or inspections as directed by the Building Official or his designee;
- (5) Proof of a valid state sales tax certificate or tax exemption is required;
- (6) Proof of permission from the owner of the private property where the temporary business is located is required. Hours of set-up and operation of the temporary business shall be limited to between 7:00 a.m. and 10:00 p.m. daily;
- (7) A dimensioned or scaled site plan indicating the location of the display area, curb cuts, and parking area is required;
- (8) No living quarters of any kind shall be permitted to be located on the site of a temporary business.

(b) *Regulations Applicable Solely to Itinerant Vendors.* The following regulations shall apply solely to itinerant vendors:

- (1) A permit application shall be filed with the Building Inspection Department at least five (5) calendar days prior to the first day of operation of the temporary business. The permit must be displayed at the temporary business in such a manner that it is clearly visible from the abutting street and must be available on request from any City official;
- (2) An itinerant vendor permit shall be issued for a minimum of five (5) days and shall not exceed forty-five (45) days in each calendar year. No physical address shall have an itinerant vendor business more than forty-five (45) days in any calendar year;
- (3) The itinerant vendor must provide at least one unisex portable sanitary facility. In lieu of the portable sanitary facility, the vendor may provide a permission letter from the owner or manager of a property located within a two-hundred-foot radius of the temporary business granting permission to use their sanitary facilities; however, the property where the itinerant vendor has permission to use the sanitary facilities cannot be located across a thoroughfare of four lanes or larger.

(c) *Regulations Applicable Solely for Carnivals.* The following regulations shall apply solely to carnivals:

- (1) A permit application shall be filed with the Building Inspection Department at least thirty (30) calendar days prior to the first day of operation of the temporary business. The permit must be displayed at the temporary business in such a manner that it is clearly visible from the abutting street and must be available on request from any City official;
- (2) No more than three (3) carnivals shall be conducted at the same address in any calendar year. No carnival operator shall be issued more than three (3) permits in any one calendar year. A permit issued under this subsection shall not exceed two weeks per permit period. The two-week period shall commence on the first day the carnival is in operation. All carnival equipment including, but not limited to trucks, trailers, rides, and booths, shall be removed from the property in its entirety upon permit expiration. More than one permit shall not be issued in the same or consecutive months;
- (3) A carnival shall be located a minimum of five hundred (500) feet from a residential zoning district. For purposes of this subsection, the measurement shall be in a direct line from the nearest portion of any property line of the lot on which the carnival is located to the nearest portion of any property line on which a residential structure is located;

- (4) The carnival operator shall provide at least two unisex portable sanitary facility and additional portable sanitary pursuant to the same requirements listed in Section 6-712(a)(1)(ii) of the City Code of Ordinances, which addresses Outdoor Toilet Facilities;
- (5) The carnival operator shall provide the City with a copy of the written inspection and/or reinspection certificate and insurance policy required under the Texas Occupations Code for amusement rides.

(d) *Revocation of permit.* The Building Official or his designee shall have the sole discretion to revoke a permit issued pursuant to this Division upon the following conditions:

- (1) Upon a violation of law; or
- (2) Upon determination of a false or misleading statement or omission of material fact on an application for a temporary business.

(e) *Appeals.* Revocation of any permit issued pursuant to this Division may be appealed to the City Manager or his designee. Such appeal shall be in writing and shall be filed with the City Manager within five (5) business days after the Building Official or his designee has revoked the permit. The decision of the City Manager or his designee shall be issued within five (5) business days and shall be final.

(f) *Penalty.* Any violation of the provisions or terms of this Division by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with subsection 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.”

**Section IV.** All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provision of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with this Ordinance shall remain in full force and effect.

**Section V.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section VI.** The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

**Section VII.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VIII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**DULY PASSED AND APPROVED** this the 12<sup>th</sup> day of May, 2014.

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Harry LaRosiliere, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY