

ORDINANCE 05- 05

AN ORDINANCE OF THE CITY OF COMMERCE, AMENDING SECTION 26-26, 26-29, 26-52 AND ADDING SECTION 26-33 OF THE CITY OF COMMERCE CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY OF COMMERCE, TEXAS:

SECTION 1. AMENDMENT.

Section 26-26 entitled *Definition* is hereby amended to read as follows:

Sec. 26-26. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Itinerant Merchant or Itinerant Vendor: means any person who goes from house to house or from place to place in the city, soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs or magazines, or subscriptions to magazines.

Solicitor: means any person who goes from house to house or from place to place in the city, soliciting contributions or collecting items for any charitable, educational or religious or other similar purpose.

Section 26-29 entitled *Use of streets by itinerant merchants* is hereby amended so that said chapter shall reflect the following additions:

ARTICLE II. ITINERANT MERCHANTS

Sec. 26-29. Use of streets by Itinerant Merchants or Solicitors.

No Itinerant Merchant or Solicitor shall have any exclusive right to any location in the public streets, nor shall any Itinerant Merchant or Solicitor be permitted a stationary location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. The Highway 50 Corridor, including all rights of way thereto and Culver Street / Loop 178 together with all rights of way thereto, are hereby designated as a "No Soliciting Zone" in which no Solicitor or Itinerant Merchant shall be permitted to operate. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Section 26-33 entitled *Temporary Fixed Outdoor Merchants/Vendors* is hereby amended so that said chapter shall reflect the following additions:

Sec. 26-33. Temporary Fixed Outdoor Merchants/Vendors.

- (a) Except where a sale or promotion is operated by and adjacent to an existing permanent business operated in the City and where the products sold outdoors are the same or similar to those sold within the existing permanent business or is operated at and in conjunction with a City sponsored or supported community-wide festival or event, it shall be unlawful for any person to operate an outdoor temporary retail sale or outdoor commercial promotion without first obtaining a permit from the City. In order to obtain a permit for any temporary outdoor retail sale, such merchant/vendor shall first obtain a letter of approval from the property owner and shall post a \$2,000 surety bond in a form acceptable to the City Secretary and shall file with the City Secretary a permit application as prescribed by that office.
- (b) Any temporary retail sales display must be set back from all street and property lines and from all rights-of-way by a minimum of thirty (30) feet.

Section 26-52 entitled *Term* is hereby amended to read as follows:

Sec. 26-52. Term.

A permit issued under this article shall be valid for a period of one month from the date of issuance.

SECTION 2. All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

SECTION 3. If any section, subsection, word, sentence, or phrase of this ordinance is declared to be invalid it shall not affect the validity of this ordinance.

PASSED AND APPROVED on the **FIRST READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 15th day of February 2005.

PASSED AND APPROVED on the **SECOND READING** at a regular meeting of the City Council of the City of Commerce, Texas on this the 1st day of March 2005.

ATTEST:

CITY OF COMMERCE:

Marty Cunningham
Marty Cunningham, City Secretary

Sheryl Zelhart
Sheryl Zelhart, Mayor

(seal)

I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of an ordinance, and that the same has not been repealed and is in full force and effect.

Marty Cunningham
Marty Cunningham, City Secretary

(seal)

Sworn to and subscribed before me, on this the 10th day of March - 2005 to certify which witness my hand and seal of office.

Rebecca J. Pattillo
Notary Public, State of Texas

(seal)

