

9/18/19

ORDINANCE NO. 31375

An ordinance amending Chapter 17, "Food Establishments," of the Dallas City Code, by amending Section 17-1.5; amending Chapter 32, "Parks and Water Reservoirs," of the Dallas City Code, by amending Section 32-10; amending Chapter 50, "Consumer Affairs," of the Dallas City Code, by amending Sections 50-157, 50-158, 50-160, 50-169, and 50-172; amending the definition of food establishment; providing an exception to the regulations regarding the sale of goods on park property and vendors on private property to allow the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or in a public park by an individual younger than 18 years of age without a permit; providing a penalty not to exceed \$2,000 for a violation of this ordinance governing public health and \$500 for all other violations; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the 86th Texas Legislature met between January 8, 2019 and May 27, 2019; and

WHEREAS, H.B. 234 was filed on November 12, 2018; and

WHEREAS, H.B. 234 prohibits municipalities from adopting or enforcing an ordinance, order, or rule that prohibits or regulates, including by requiring a license, permit, or fee, the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or in a public park by an individual younger than 18 years of age; and

WHEREAS, H.B. 234 was approved by both chambers of the Texas Legislature; and

WHEREAS, H.B. 234 was signed by Governor Greg Abbott on June 14, 2019; and

WHEREAS, H.B. 234 became law on September 1, 2019; Now, Therefore,

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

SECTION 1. That Paragraph (7) of Subsection (b) of Section 17-1.5, "Definitions," of Article I, "Food Establishments Generally," of Chapter 17, "Food Establishments," of the Dallas City Code, is amended by adding a new Subparagraph (D) to read as follows:

"(D) The term does not include a stand that only offers the occasional sale of lemonade or other nonalcoholic beverages on private property or in a public park by an individual younger than 18 years of age."

SECTION 2. That Section 32-10, "Sale of Services or Goods on Park Property," of Article I, "In General," of Chapter 32, "Parks and Water Reservoirs," of the Dallas City Code, is amended by adding a new Subsection (d) to read as follows:

"(d) This section does not apply to the occasional sale of lemonade or other nonalcoholic beverages from a stand in a public park by an individual younger than 18 years of age."

SECTION 3. That Subsection (14) of Section 50-157, "Definitions," of Division 1, "In General," of Article XII, "Street Vendors," of Chapter 50, "Consumer Affairs," of the Dallas City Code, is amended to read as follows:

"(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. The term does not include a stand that only offers the occasional sale of lemonade or other nonalcoholic beverages on private property or in a public park by an individual younger than 18 years of age."

SECTION 4. That Section 50-158, "Vendors on Public Property," of Division 2, "Vending on Public Property," of Article XII, "Street Vendors," of Chapter 50, "Consumer Affairs," of the Dallas City Code, is amended by adding a new Subsection (d) to read as follows:

"(d) This section does not apply to the occasional sale of lemonade or other nonalcoholic beverages from a stand in a public park by an individual younger than 18 years of age."

SECTION 5. That Section 50-160, "Vendors on Private Property," of Division 3, "Vending on Private Property," of Article XII, "Street Vendors," of Chapter 50, "Consumer Affairs," of the Dallas City Code, is amended by adding a new Subsection (c) to read as follows:

"(c) This section does not apply to the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property by an individual younger than 18 years of age."

SECTION 6. That Section 50-169, "Duties and Conduct of Street Vendors," of Division 6, "Miscellaneous Requirements for Street Vendors in the Central Business District," of Article XII, "Street Vendors," of Chapter 50, "Consumer Affairs," of the Dallas City Code, is amended to read as follows:

"SEC. 50-169. DUTIES AND CONDUCT OF STREET VENDORS.

(a) A person who, either personally or through an agent, sells, distributes, or offers 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;
- (2) 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;
- (3) 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 or sidewalk;
- (4) not enter a public roadway to solicit or conduct a sale;
- (5) not sell, distribute, or offer for sale goods or services 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) take reasonable steps 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;

(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) if vending on public property, operate the business only during the following times, 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) sell, distribute, or offer for sale only those goods or services that the director has approved as not endangering the public health, safety, or welfare; the director may withdraw a 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) 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;

(13) not do business except on a vending location site designated by the director;

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

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

(16) post the applicable license or copy of the license in a conspicuous place on the vehicle from which 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 from which to sell goods or services, display the license or copy on the person's clothing at any time the goods or services are being sold, distributed, or offered for sale on public or private property;

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

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

(19) comply with all other applicable laws, ordinances, or regulations of the city.

(b) This section does not apply to the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or in a public park by an individual younger than 18 years of age.

SECTION 7. That Section 50-172, "Signs and Advertising Devices," of Division 6, "Miscellaneous Requirements for Street Vendors in the Central Business District," of Article XII, "Street Vendors," of Chapter 50, "Consumer Affairs," of the Dallas City Code, is amended by adding a new Subsection (e) to read as follows:

"(e) This section does not apply to the occasional sale of lemonade or other nonalcoholic beverages from a stand on private property or in a public park by an individual younger than 18 years of age."

SECTION 8. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000 for a violation of a provision of this ordinance governing public health and \$500 for all other violations.

SECTION 9. That Chapters 17, 32, and 50 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 10. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 11. 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.

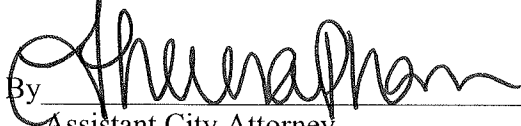
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SECTION 12. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By  Assistant City Attorney

Passed NOV 13 2019



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL NOV 13 2019

ORDINANCE NUMBER 31375

DATE PUBLISHED NOV 16 2019

ATTESTED BY: