

Ordinance No. 2006.11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF QUEEN CITY, TEXAS, RELATING TO REGULATION OF BUSINESSES, INCLUDING TEMPORARY AND ITINERANT BUSINESSES WITHIN THE CITY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING PENALTIES; AND, PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF QUEEN CITY, TEXAS:

ARTICLE 1. BUSINESS PERMITS

Section 1.01 Definitions

In this article, unless the context otherwise requires:

Business means any trade, calling, profession or occupation which regularly provides goods and/or services within the corporate limits of the City of Queen City. "Business" does not include schools, churches, athletic groups, non-profit organizations, persons fulfilling work under a warranty or professionals performing work within their profession, on an itinerant basis, within the city limits of Queen City who are licensed by the State of Texas.

- (1) Permanent business means a business use, which occurs for a period of more than six (6) months a year.
- (2) Home based business means a business operated in the confines of a residence.

Person means an individual, firm, partnership, joint venture, association, corporation, or any other group, organization, or entity acting as a unit in the plural as well as the singular number.

Regularly means at least once a month.

Section 1.02 Permit(s) required. (Exhibit A)

- (1) It shall be unlawful for any person to operate a business, either from a permanent structure or a mobile structure or by personal solicitation or contact, or to conduct a special event, without complying with the regulation specified in this article and obtaining a business permit from the City.
- (2) Institutions, organizations, enterprises and agencies classified as "Non-Business", (schools, churches, athletic groups or nonprofit organizations) conducting business like activities, are required to obtain a permit in order to collect documentation of exempt status and vital business statistics utilized in development of a community business profile. Upon receipt of an application from "Non-Business" enterprises the City will review the application and determine if the applicant is qualified to be issued an exemption of fees under Section 1.11.
- (3) It shall be unlawful for any person to operate or conduct a temporary business or special event without first obtaining a temporary business permit.

Section 1.03 General requirements.

- (1) A separate permit must be obtained for each branch establishment or location where a business is conducted.

9. If applicable, state sales tax number and a copy of the applicant's Texas transitional sales tax license or documentation of exemption.

10. If applicable, the licensing information for all businesses, trades and professions licensed by the county, state or national certification.

11. Registration number or copy of any other license deemed necessary to conduct business (health, state, local or national certification, etc....).

(c) Upon receipt of a completed business permit application, the city shall:

1. Review, verify and process the application.

2. Forward the application to the planning and zoning department, which shall review it, to verify that all zoning requirements are satisfied.

3. Once the City has reviewed and verified the application and planning and zoning has given clearance to the City Secretary, the permit shall be issued within a period of seventy-two (72) hours (three (3) working days).

(2) Payment and renewal of business permit.

(a) A person applying for a business permit under this ordinance shall pay an initial processing fee of twenty-five dollars(\$25.00).

(b) All permanent business permits shall be renewed on an annual basis. The permittee shall file with the City Secretary renewal form supplied by the City, no later than the first working day of January of each year, with current information. Permits not filed by that date will be suspended and a new permit and processing fee will be required. If there are no changes in the information that the permittee provided to the City the previous year, the permittee may check the box next to "No changes in information provided last year."; sign the renewal application and submit to the City Secretary.

(c) A new business permit fee shall become due and payable on or before the day of commencement of the business or event for which a permit is required.

(d) A person who has an existing business permit and changes the type or nature of business or the ownership of business shall be required to apply for and obtain a new business permit.

Section 1.05 Home based permit

(1) An approval for a Home Based permit is required prior to issuance of a Business Permit.

(a) The total number of employees other than family members shall not exceed one full-time (40 hours per week) employee or equivalent.

(b) The home occupation may not involve the use of more than one (1) additional building. Yard space may not be used for storage or activities outside the dwellings

(e) Failure to comply with term or condition of approval as specified in the permit application, such as but not limited to, building permits and development.

Section 1.07 Appeal.

(1) Within five (5) days from the refusal or suspension an applicant or a permittee may request an appeal from the refusal or suspension of a permit.

(2) A date for a hearing shall be set within ten (10) days of the request for an appeal from the refusal or suspension. The Queen City City Council shall conduct the hearing.

(3) Within three (3) days after the hearing, the Council's findings shall be sent to the applicant or permittee by certified mail.

Section 1.08 Exhibition of permit.

Every permittee operating a business at a fixed location shall keep such permit posted and exhibited, while in force, in some conspicuous part of the place of business. Every permittee not having a fixed place of business shall carry the permit with him at all times while operating that business for which the same was granted.

Section 1.09 Permit not transferable.

No permit issued under the provisions of this ordinance shall be assignable or transferable to any other person.

Section 1.10 Change of place of business.

No permit issued under the provisions of this ordinance shall apply to any business location other than the location designated in the permit application.

Section 1.11 Exemption; fees.

Any organization operated exclusively for educational, religious, charitable public service, fraternal or other not-profit purposes and having a permanent address within the confines of the City of Queen City may be exempted from the provision of this ordinance.

Section 1.12 Penalties.

A violation of this ordinance shall constitute a petty offense. Each day that a person is in violation of this ordinance may constitute a new offense.

Section 1.13 Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 2.03 General requirements.

- (1) A separate permit must be obtained for each branch establishment or location where a business is conducted.
- (2) When more than one temporary business is operated, transacted or practiced in the same location by the same person, then only one permit shall be required for such person.
- (3) When more than one business is operated, transacted, or practiced in one location by a person other than the primary person, a separate permit shall be obtained for each person conducting such business. For example, two vendors sharing the same location will be required to obtain separate permits.

(a) Exception: In the case of an establishment in which merchandise, goods and services are placed on consignment by persons and where the primary person is issued the state tax ID license and accepts responsibility for collection and payment of all taxes on transactions subject to said taxes, the primary person is responsible for obtaining business permit for said business.

(4) For special events, only the sponsor of the primary event shall be required to obtain a permit and temporary business permit. The City Council, however, may require all vendors participating in the event to obtain a permit if it is deemed necessary for preserving the general health, welfare and safety of the community.

(5) Does not include fundraising activities by sponsored schools, churches, athletic groups or non-profit organizations, which have a minimal impact on surrounding properties. The aforementioned fundraising activities do not include activities described in subsection (2) above.

Section 2.04 Temporary Business permits.

- (1) Issuance of business permits.

(a) The temporary business permit application shall include, but not necessarily be limited to, the following information:

1. Name of business
2. Name of applicant and relationship to the business or entity.
3. Complete permanent and local address.
4. A brief description of the nature and type of the business.
5. List of the type of product(s) produced, sold or the service(s) rendered. Specify in the materials and products will include flammable or toxic materials.
6. If business is a corporation, the state where incorporated and provide the name and address for the Texas statutory agent.
7. Provide names and addresses of officers/owners of the business.
8. The length of time for which the right to do business is desired.

Section 2.05 Refusal to issue permit/ Revocation of permit.

- (1) The City shall have the authority to refuse to issue a temporary business permit if the person applying for the permit fails to comply with the requirements of this ordinance.
- (2) A permit issued under the provisions of this ordinance may be revoked by the City for any of the following:
 - (a) Fraud, misrepresentation, or false statement made in the course of applying for a permit;
 - (b) Judicial finding of fraud, misrepresentation, or false statement made in the course of operating the business;
 - (c) Any violation of this ordinance;
 - (d) Judicial finding that the permittee conducted a business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public; and/or
 - (e) Failure to comply with term or condition of approval as specified in the permit application, such as but not limited to, building permits and development.
- (3) If an applicant or a permittee has not complied with any of the requirements listed above, or if, through a routine criminal background investigation it is discovered that an applicant or a permittee has a criminal background and that background may jeopardize the welfare and safety of the community, the City may immediately refuse to grant a permit or suspend an existing permit. The applicant or permittee shall receive notice by personal service or if personal service cannot be effected, then and in that event, by certified mail of the refusal or suspension. The notice shall contain a statement of the reason(s) for the refusal or suspension.

Section 2.06 Appeal.

- (1) Within five (5) days from the refusal or suspension an applicant or a permittee may request an appeal from the refusal or suspension of a permit.
- (2) A date for a hearing shall be set within ten (10) days of the request for an appeal from the refusal or suspension. The Queen City City Council shall conduct the hearing.
- (3) Within three (3) days after the hearing, the Council's findings shall be sent to the applicant or permittee by certified mail.

Section 2.07 Exhibition of permit.

Every permittee not having a fixed place of business shall carry the permit with him at all times while operating that business for which the same was granted. Every sponsor of a special event shall post the temporary business permit required under this article in a conspicuous location during all hours of the special event.