

ORDINANCE NO. 321

AN ORDINANCE AMENDING CHAPTER 4 SECTION 2: ROADSIDE VENDORS OF THE CODE OF ORDINANCES BY AMENDING REGULATIONS APPLICABLE TO ROADSIDE VENDORS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEVEN POINTS, TEXAS:

Article 1.

That Chapter 4, Section 2, of the Code of Ordinances of the City of Seven Points is hereby amended to read as follows:

SECTION 2.

A. Definitions

The words "mobile vending unit" shall mean a motor vehicle from which a roadside vendor sells ice cream.

The words "roadside vendor" shall mean a snow cone stand or mobile ice cream vendor.

The words "temporary stand" shall mean a non-permanent structure from which a roadside vendor sells snow cones.

B. Permits and Exemptions

A person may not operate as a roadside vendor without a permit issued by the City of Seven Points. Permits are not transferable and are applicable to a specific location. A valid permit must be posted in or on every establishment regulated by this ordinance. All roadside vendor permits shall designate a sale period on the face of the permit. A permit for a mobile unit shall be posted in the mobile unit, and shall list every individual authorized to drive the mobile unit.

C. Application for Permit, Fees, Locations and Time of Sale

(1) A permit to operate as a roadside vendor shall be issued only after an application is filed. The application must contain the name and address of each applicant, the location where the vendor will operate, and type of product to be provided. An incomplete application will

not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

(2) Prior to the approval of an initial permit or the renewal of an existing permit, the City of Seven Points shall inspect the temporary stand or mobile unit to determine compliance with state laws and rules. A temporary stand or mobile unit that does not comply with state laws and rules will be denied a permit or the renewal of a permit.

(3) The annual fee for a roadside vendor permit is \$200.00.

(4) In addition to the annual fee, a deposit of \$100.00 is required to be paid before the permit is issued. The deposit will be returned if all trash and debris is removed from the site on a daily basis, and after the prompt removal of the temporary stand no less than five days after the sale period stated in the permit.

(5) All temporary stands shall be removed following the expiration of the sale period stated in the permit. A non-removable stand must comply with the zoning laws and building codes for a permanent building. A roadside vendor may not operate from a non-removable stand.

(6) All temporary stands may be located only in the B-2 Zone and shall provide written approval from the property owner to be kept on file with the city. The site shall provide sufficient off-road paved parking to allow patrons to access the temporary stand without inconvenience to traffic.

(7) The sale period may not begin prior to May 15 and may not end after September 15.

(8) All applicants for permits to operate mobile units shall provide the city a copy of valid Texas Drivers License for every person who will drive the unit, proof of liability insurance on the vehicle in the amount required by the laws of the state of Texas, and shall consent to a criminal history background check to be performed by the city on the applicant and any person who will drive the unit. The permit may be denied if the criminal history check reveals:

- (a) any felony convictions;
- (b) any conviction for a misdemeanor involving dishonesty or moral turpitude;
- (c) any conviction or pending charge for operating a motor vehicle while under the influence of alcohol or drugs; or
- (d) any pending felony charges.

D. Suspension of Permit

(1) The city may, without warning, notice, or hearing suspend any permit to operate as a roadside vendor if the operation constitutes an imminent hazard to public health or safety. Suspension is effective upon service of the notice required by (D)(2) of this ordinance. When a permit is suspended, all operations shall immediately cease. Whenever a permit is

suspended, the holder of the permit shall, upon request, be provided a hearing within 20 days of receipt of the request for a hearing.

(2) Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the city by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The city may end the suspension at any time if reasons for suspension no longer exist.

E. Revocation of Permit

(1) The city may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the city in the performance of its duties. Prior to revocation, the city shall notify the holder of the permit, in writing:

- (a) of the reason for which the permit is subject to revocation; and
- (b) that the permit shall be revoked ten days after service of the notice unless a written request for a hearing is filed with the city by the holder of the permit within such ten-day period.

(2) If no request for hearing is filed within the ten day period, or if the revocation is upheld after the hearing is held, the revocation of the permit becomes final.

F. Administrative Process

(1) A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the city.

(2) The hearing provided for in these rules shall be conducted by the city at a time and place designated by the city. Based upon the information provided at such hearing, the city shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. Upon request, a written report of the hearing decision shall be furnished to the holder of the permit by the city.

F. Enforcement

(1) Any person who violates a provision of these rules shall be guilty of an offense, and shall be fined not more than \$500.00.

(2) The city may seek to enjoin violations of these rules. The city may not be required to show imminent irreparable harm to obtain an injunction.

Article 2. Severability

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If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Article 3. Effective Date

The provisions of this ordinance shall take effect on the 8th day of August, 2006.

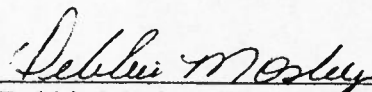
INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE SEVEN POINTS CITY COUNCIL THIS THE 8TH DAY OF AUGUST, 2006.



Mayor Gerald Taylor

Ronald D. Stutes, City Attorney

ATTEST:



Debbie Mosley, City Secretary

The following caption was printed in the Monitor the official newspaper for the City of Seven Points on August 1, 2006.

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