

ORDINANCE No. 2010-117

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROANOKE, TEXAS, AMENDING CHAPTER 4, ARTICLE 4.200, SECTION 4.209, OF THE CODE OF ORDINANCES, ENTITLED "TEMPORARY VENDING" BY AMENDING THE HOURS OF OPERATION FOR TEMPORARY VENDORS BETWEEN THE HOURS OF 7:00 A.M. AND 12:00 MIDNIGHT; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE EFFECT FROM AND AFTER ITS DATE OF PUBLICATION.

WHEREAS, the City Council of the City of Roanoke, Texas, has determined that the following regulation is necessary in order to protect public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROANOKE, TEXAS:

Section 1. FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. That Chapter 4, Article 4.200, Section 4.209, of the Code of Ordinances of the City of Roanoke, Texas, entitled "Temporary Vending" is hereby amended to read as follows:

"Sec. 4.209. Temporary Vending.

(a) *Definitions.*

"Temporary vending" shall be defined as sales of food or merchandise or the provision of services other than within an enclosed building which has been certified for occupancy by the City Building Official for such sales or services in conformity with the Code of Ordinances of the City of Roanoke.

"Owner" shall be defined as the owner, lessee, licensee or legal occupant of real property.

"Temporary vendor" shall be defined as the person, firm, corporation, or other entity who is the seller of food or merchandise or the provider of services.

"Event" shall be defined as a concert or special event to take place in the City of Roanoke, Denton County, Texas.

(b) *Prohibited.* Temporary vending shall not be allowed except as permitted under this article. Temporary vendors shall not conduct temporary vending except as follows:

- (1) Between the hours of 7:00 a.m. and 12:00 a.m. (midnight). on any day of an event;
- (2) For merchandise or services related to an event;

- (3) Not less than twenty (20) feet from the improved portion of a public road or highway;
 - (4) On land for which an owner has first acquired a permit under this article;
 - (5) For sales of food or merchandise or provision of services for which a temporary vendors permit has been issued by the City of Roanoke;
 - (6) No event shall take place on any owner's property more two (2) times within any calendar year.
- (c) *Owner's permit.* An owner may not permit or allow temporary vending on the owner's land except when an owner's permit therefore has been issued by the City of Roanoke. An owner's temporary vending permit, valid for one (1) year, may be issued to an owner under the following conditions:
- (1) The owner's land must have an approved, permanent driveway to such property.
 - (2) The owner's land is not zoned for or occupied or used as a residence, either single-family or multi-family.
 - (3) The owner has applied for a one-year permit not less than three (3) days prior to a race or other special event.
 - (4) The owner attaches to his application a site plan showing the location of any proposed vending on the property with:
 - a. A minimum of one (1) portable toilet for the owner's property, with one (1) portable toilet for every two (2) vendors.
 - b. One (1) thirty-nine-gallon or larger trash receptacle for each vendor.
 - c. A minimum of six hundred (600) square feet of improved parking for each vendor.
 - (5) The owner pays a permit fee of twenty-five dollars (\$25.00) for each tract of land to be used for vending.
- (d) Temporary vending shall be unlawful except when the vendor has first secured a permit therefore and all sales and services comply with the terms and conditions of this section, as follows:
- (1) Temporary vendor's permits may be issued to each vendor no more than two (2) times in a calendar year and shall expire seven (7) days upon application.
 - a. Name, address, and telephone number of vendor.
 - b. Sales tax identification number of vendor.
 - c. Food handler's permit from State or County with identification number, and any necessary health certificates.

- d. Exact kinds of merchandise or services to be sold or performed, which must be event related.
 - e. Address of vending booth, structure or conveyance during sales.
 - f. Contain written permission of the owners of the land, as defined herein, and the owner's permit number.
 - g. A designation or a copy of the owner's permit site plan, the location of the vendor's space for sales or services.
- (2) Additionally, temporary vendors shall remit a fee of one hundred dollars (\$100.00) for each space where sales or services shall take place, and an additional thirty-five dollars (\$35.00) for each space where food or beverage will be sold or handled.
- (e) A person having an owner's temporary vending permit shall:
- (1) Not permit the erection or placement of temporary vendor's booth or structure more than one (1) day prior to an event;
 - (2) Remove all temporary vendor's booths or structures not more than one (1) day after an event; and
 - (3) Have located on site a minimum of one (1) portable toilet for every two (2) vendor's, and one (1) thirty-nine-gallon or larger trash receptacle for each vendor.
- (f) A person having a temporary vendor's permit shall:
- (1) Not erect or place a booth, structure, partition or other sales site on the approved site more than one (1) day prior to an event;
 - (2) Remove all booths, structures, partitions or other sales sites on the approved site not more than one (1) day after the event; and
 - (3) Sell only event-related merchandise, food, provide event-related services, and comply with all Health, Fire Code, and sales tax requirements of the City of Roanoke, Denton County, and the State of Texas.
 - (4) Prominently display the temporary vendor's permit issued hereunder and produce upon demand copies of all applications, sales tax certificates, and food handler and health certificates.
- (g) Owners and temporary vendors shall:
- (1) Not disrupt traffic;
 - (2) Keep all driveways and passageways clear of obstructions; and

- (3) Comply with any and all emergency orders of the Building Official or Police Department relative to traffic or safety, including removal of any or all of the vendor's structures or merchandise."

Section 3. PENALTY CLAUSE

Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$500.00 for each offense, and each and every violation or day such violation shall continue or exist, shall be deemed a separate offense.

Section 4. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. REPEALER CLAUSE

Any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

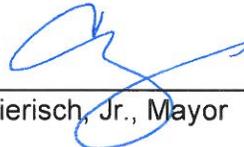
Section 6. EFFECTIVE DATE

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

PASSED, APPROVED AND ADOPTED by the City Council of the City of Roanoke, Texas, on this the 24th day of August, 2010.

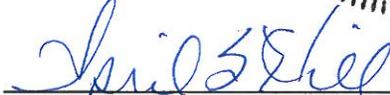


APPROVED:



Carl E. Gierisch, Jr., Mayor

ATTEST:



April S. Hill, City Secretary

APPROVED AS TO FORM:



Jeff Moore, City Attorney