

ORDINANCE NO. 2016-375

AN ORDINANCE OF THE CITY OF PARKER, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PARKER (ORDINANCE NO. 2010-349, AS AMENDED); AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES RELATED TO SOLICITORS AND MOBILE FOOD VENDORS; PROVIDING FOR SEVERABILITY; PROVIDING A MECHANISM FOR THE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR THE LIBERAL CONSTRUCTION OF THIS ORDINANCE; PROVIDING FOR CODIFICATION AND REPEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. The Table of Contents of Article IV of Chapter 18 of the Code of Ordinances, City of Parker, Florida, is hereby amended to read as follows:

Article IV. Solicitors and Mobile Food Vendors

- Sec. 18-81. Definitions.
- Sec. 18-82. Specific provisions for solicitors.
- Sec. 18-83. Exemptions and exceptions
- Sec. 18-84. Specific provisions for mobile food vendors.
- Sec. 18-85. Permit requirements.
- Sec. 18-86. Fees; duration and display of permits.
- Sec. 18-87. Penalties, denial and revocation.
- Sec. 18-88. Unauthorized use of permit.

Section 2. Sections 18-81 through 18-119 of the Code of Ordinances, City of Parker, Florida, are hereby repealed in their entirety and Sections 18-81 through 18-88 are inserted in their place to read as follows:

Sec. 18-81. Definitions.

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

Applicant means any person who applies for a permit.

Charitable, nonprofit or veterans organization means an organization which has qualified for an exemption from Federal Income Tax as an exempt organization under the provisions of Section 501(c) of the Internal Revenue Code of 1954, or Section 528 of the Internal Revenue Code of 1986, as may be amended or superseded, which is engaged in charitable, civic, community, benevolent, religious or scholastic works or other similar activities.

Mobile Food Vendor means any person who sells or offers for sale food, including but not limited to fresh fruits and vegetables, or beverages from a truck, trailer or similar movable conveyance or mobile structure.

Permit means evidence of compliance with this article by a person issued in written form by the city, and includes some pictorial positive identification of the permit holder.

Premises means a lot or parcel of land either vacant or with its appurtenances and buildings, habitations, institutions or places of business which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Public lands means any park or school yard or open space adjacent thereto, and all waterways and sovereign lands, rights-of-way, highways, streets and alleys as designated or recognized as public by the city, county, state or the United States Government.

Residence means every separate living unit occupied for residential purposes by one or more persons, contained in any type of building or structure.

Solicitor means any individual traveling from place to place, selling or attempting to sell goods, wares or

merchandise, or taking or attempting to take orders for sale of goods, wares or merchandise, subscriptions, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. "Solicitor" shall include persons engaged in soliciting information door-to-door for the purpose of polls, surveys and similar activities for a commercial purpose, but shall not include persons engaged in the exercise of their constitutional rights of freedom of speech and political activity. The term "solicitor" shall not apply to the following:

- a. Sales made to dealers or permanent merchants by commercial travelers selling in the usual course of business;
- b. Sales by charitable, nonprofit or veterans organizations; and
- c. Law enforcement officers, receivers or trustees in bankruptcy or other public officials selling goods, wares or merchandise according to law.

Sec. 18-82. Specific provisions for solicitors.

In addition to the general provisions set forth elsewhere in this article, solicitors (whether holding permit or not) shall be subject to the following:

- (1) No solicitor shall have any right to operate on public lands or in any congested area where his or her operations might impede or inconvenience the public.
- (2) No solicitor shall operate on the beach areas upland of the mean high water line.
- (3) No person may solicit at a private residence in any area of the city designated on the then current land use map of the city as Residential, MU-1, MU-2, General Commercial or Recreation when such residence displays a sign near the place of entrance reading "No Soliciting" or "No Peddling," or words of similar meaning.
- (4) No person shall solicit within the city on Sunday, any

recognized federal holiday, or between the times of 9:00 p.m. and 9:00 a.m. daily.

- (5) No person shall solicit in the city without first having obtained a permit from the city.

Sec. 18-83. Exemptions and exceptions.

- (1) The provisions of this article shall not apply when solicitation is conducted on an appointment basis, with a time for such appointment set either by telephone or through the United States Mail, or by other than residence-to-residence solicitation and/or sale.
- (2) The city retains the right to grant exceptions to the requirements of this article for special events authorized and approved by the city.

Sec. 18-84. Specific provisions for mobile food vendors.

In addition to the general provisions set forth elsewhere in this article, mobile food vendors (whether holding permit or not) shall be subject to the following:

- (1) No mobile food vendor shall obtain a permit for a permanent location; otherwise, said vendor shall be subject to all of the then current provisions of the city's Land Development Regulations to include but not be limited to requirements for development orders and building permits and shall have permanent connections to all required utilities including but not limited to electric, gas, water and sewer.
- (2) Mobile food vendors shall only operate on private property in a Commercial Land Use District of the city as designated on the then current land use map of the city. The written consent of the property owner shall be included in the application for permit and such consent shall specify that it will not be withdrawn except upon thirty days' notice to the city.
- (3) The operations of a mobile food vendor shall be self-contained; there shall be no external connections for

any utilities including but not limited to electricity, water and sewer.

- (4) No person shall operate as a mobile food vendor within the city without having obtained a permit to do so.
- (5) Each mobile food vendor shall abide by all codes of the city, county and state including all Department of Agriculture and Department of Health rules.
- (6) No mobile food vendor shall have or provide outside seating.
- (7) No mobile food vendor shall use signs except those that may be painted on or affixed to the conveyance.
- (8) A mobile food vendor must assure that any parking provided for customers be off City rights-of-way.
- (9) No mobile food vendor shall bring the truck, trailer or other mobile conveyance to the property prior to 7:00 a.m. and shall remove the truck, trailer, or other mobile conveyance from the property no later than 7:00 p.m. each day.
- (10) Each mobile food vendor is responsible for the proper disposal of all waste, trash and garbage associated with its operation. Mobile food vendors must maintain all areas within 25 feet of their operations. The mobile food vendor shall properly remove any waste, trash and garbage within 25 feet of its operations at the end of each day whether or not caused by the vendor or any customer.
- (11) A mobile food vendor shall not impair, impede, endanger or interfere with pedestrian or vehicular traffic.
- (12) No mobile food vendor shall operate within 25 feet (in all directions) of any fire hydrant.
- (13) No mobile food vendor shall provide public restroom facilities.

Sec. 18-85. Permit requirements.

(a) Solicitors and mobile food vendors must receive a permit to do business in the city. Solicitors and mobile food vendors apply for a permit by submitting a written, sworn and notarized application on a form furnished by the city, which shall give the following information:

- (1) Name of the applicant, including date of birth;
- (2) Permanent home address and full local address of the applicant;
- (3) Description of the business;
- (4) Social security or taxpayer identification number of applicant;
- (5) As to an application of a mobile food vendor, a description of the vehicle, trailer or enclosure, together with license number and driver's license number or other means of identification;
- (6) As to an application of a mobile food vendor, a property owner authorization affidavit, on a form furnished by the city, stating that the applicant has permission to be on the owner's property and to operate the business described, and that the property owner takes responsibility for complying with laws and maintaining the property.
- (7) As to an application of a mobile food vendor, the applicant shall provide to the city with an agreement pursuant to which the mobile food vendor releases and forfeits any right of action against the city or its members, officials, employees and agents from any liabilities, claims for damages, losses, and costs which arise out of or in connection with their operations (including all costs for investigation and defenses thereof, such as court costs, reasonable expert witness and attorney fees) and to the fullest extent permitted by law, indemnifies, defends and

saves the city and city's members, officials, officers, employees and agents harmless against all liability, claims for damages, and suits for or by reason of (1) any injury to any person, including death, (2) damage to any property for every cause in any way connected with their operations irrespective of negligence, actual or claimed, upon the part of the city, its agents and employees, except where caused by the willful and wanton acts of City officials, officers, employees and agents and (3) environmental damages, claims or citations due to mobile food vendor's operations violating any environmental law, ordinance, rule or regulation;

- (8) Such other relevant information as may be required by the city; and
- (9) Signature of applicant.

Sec. 18-86. Fees; duration and display of permits.

(a) The fee for the solicitation permit is \$25.00 per individual involved. The fee for a mobile food vendor is \$100.00 per individual involved.

(b) All permits issued pursuant to this article for solicitors and mobile food vendors shall be dated and signed by the city clerk and the chief of police or their respective designees.

(c) Permits for solicitors shall be valid during the term specified, and will expire 60 days after the date of issuance.

(d) Permits for mobile food vendors shall be valid from the date of issuance and will expire the next September 30.

(e) Applications for a new permit are required upon expiration of an existing permit and shall be considered in all respects as a new permit.

(f) The permits are not transferable and will state: "Not Transferable and Not an Endorsement or a Recommendation." The permits will also state the expiration date thereof.

(g) Any person issued a permit for soliciting in accordance with this article shall prominently display, upon his or her person at all times that he or she is engaged in solicitation or other activities regulated by this article within the city, the permit issued to him or her by the city.

(h) Any person issued a permit for mobile food vending in accordance with this article shall prominently display, upon the outside of the vehicle, trailer, etc. at all times that he or she is engaged in mobile food vending or other activities regulated by this article within the city, the permit issued to him or her by the city.

Sec. 18-87. Penalties, denial and revocation.

(a) It shall be unlawful for any person to engage in or act as a solicitor or a mobile food vendor within the corporate limits of the city without first obtaining a permit, even if a permit or license is obtained from any other governmental entity. Any person violating the provisions of this article shall be punished as provided in section 1-7. Every day of a violation of this article shall constitute a separate offense.

(b) Applications may be denied and permits issued under the provisions of this article may be revoked by the city for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application;
- (2) Fraud, misrepresentation or false statement made in the course of the applicant carrying on such business as solicitor or mobile food vendor;
- (3) Any violation of this article or any other ordinance of the city; or
- (4) Conducting the business of soliciting or mobile food vending 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 welfare of the public.

(c) If a permit is revoked, written notice will be given

by the city to the permit holder in person or by certified United States mail addressed to the residence address set forth in the application. Immediately upon the giving of such notice the permit shall become null and void.

(d) The denial or revocation of a permit under this article may be appealed to the council by serving a notice of such appeal upon the clerk within 30 days after such denial or revocation. Such appeal shall be heard and resolved by the council in such a manner as to afford due process within 30 days after the filing of the notice.

Sec. 18-88. Unauthorized use of permit.

A permit issued under the provisions of this article shall not be used at any time by any person other than the one to whom it was issued.

Section 3. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, 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.

Section 4. Scrivener's Error.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section 5. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section 6. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 7. Repeal of Conflicting Codes, Ordinances, and Resolutions.

All codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 8. Effective Date.

This Ordinance shall take effect immediately upon its passage.

PASSED, ADOPTED AND ADOPTED at a Meeting of the City Council of the City of Parker, Florida as of the 16th day of August, 2016.

CITY OF PARKER

Richard P. Musgrave
Richard Musgrave, Mayor

ATTEST:

Nancy Rowell
Nancy Rowell, City Clerk

Examined and approved by me, this 16th day of August, 2016.

Richard P. Musgrave
Richard Musgrave, Mayor