

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, REPEALING ORDINANCE NO. 05-09-80 AND AMENDING FRISCO'S CODE OF ORDINANCES, ORDINANCE NO. 06-03-31, AS AMENDED, CHAPTER 27 (BUSINESSES AND BUSINESS REGULATIONS), ARTICLE V (TEMPORARY OUTDOOR PARKING LOT/TENT SALES); MODIFYING CERTAIN REGULATIONS RELATING TO TEMPORARY OUTDOOR PARKING LOT/SIDEWALK SALES FOR BUSINESSES, TENTS AND OTHER TEMPORARY STRUCTURES FOR SALES, SEASONAL SALES AND/OR OTHER OUTDOOR EVENTS; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it would be advantageous, beneficial and in the best interest of the citizens of the City of Frisco, Texas ("Frisco") to amend Article V (Temporary Outdoor Parking Lot/Tent Sales), Chapter 27 (Businesses and Business Regulations), Part II of the Frisco Code of Ordinances, Ordinance No. 06-03-31, as amended ("Code of Ordinances"); and

WHEREAS, the City Council has investigated and determined that in order to most effectively make the deletions and additions necessary to Article V (Temporary Outdoor Parking Lot/Tent Sales), Chapter 27 (Businesses and Business Regulations), Part II of the Frisco Code of Ordinances, it is in the best interest of the citizens of Frisco to repeal Ordinance No. 05-09-80, and replace it with this Ordinance, adopting rules regulating outdoor sales, seasonal outdoor sales and temporary tents as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, 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: Repeal of Ordinance No. 05-09-80. Ordinance No. 05-09-80 is hereby repealed in their entirety and replaced by this Ordinance. The effective date of the repeal discussed in this Section shall not occur until the effective date of this Ordinance, at which time Ordinance No. 05-09-80 shall be repealed. Such repeal shall not abate any pending prosecution or lawsuit or prevent any prosecution or lawsuit from being commenced for any violation of Ordinance No. 05-09-80 occurring before the effective date of this Ordinance.

SECTION 3: Amendment to the Code of Ordinances, Chapter 27 (Utilities). The Code of Ordinances, Chapter 94 (Utilities) is hereby amended in its entirety as follows;

“ARTICLE V. TEMPORARY OUTDOOR SALES / TENT PERMIT

Sec. 22-270 Temporary outdoor sales; Definition and regulations.

Temporary outside sales. The outdoor sale and/or promotion of products, merchandise or services that is conducted on the property of an existing business. This definition does not include outdoor storage and display in compliance with the Zoning Ordinance as it exists or may be amended.

1. A permit is required for temporary outdoor sales. A business location or a property owner may receive permits to hold up to eight (8) temporary outdoor sales each calendar year. The calendar year commences on January 1st. Each permit shall be issued for no more than seven (7) consecutive days. Temporary outdoor sales are only allowed in non-residential and mixed use zoning districts. These regulations do not apply to temporary outdoor sales as part of a permitted special event.
2. A permit is not required for civic, religious, school, government or other non-profit organizations for outdoor sales. Operations shall comply with the requirements for Temporary outdoor sales as is applicable.
3. Each permit for temporary outdoor sales is one hundred (\$100.00) dollars. A permit holder shall obtain all required permits and approvals necessary for operations including but not limited to electrical, health and tent permits.
 - a. Written permission is required from the business or property owner of a business property location.
 - b. A detailed site plan shall be provided with each application for approval.
 - c. Temporary lighting must meet the requirements of the City's Zoning Ordinance, as it currently exists or may be amended. Any lights located on the premises shall not flash, travel, blink, fade, move, or scroll.
 - d. Accessible routes to building elements including parking spaces, sidewalks and pedestrian access ramps shall meet the Americans with Disabilities Act requirements as they currently exist or may be amended. Three (3) feet minimum clearance is required for all accessible routes. Fire lanes, fire hydrants and other building access for emergency services shall not be blocked or obstructed.
 - e. One temporary sign or banner may be displayed during the permitted time without an additional sign permit.
4. The Building Official may revoke or suspend permitted temporary outdoor sales on the basis of incorrect information provided for permit issuance, or where it is determined that the operations effect the health or safety of the public. This includes but is not limited to noise disturbances, inadequate parking, impeding traffic in the public right of way or obstructing access to adjacent businesses.

Sec. 22-271 Temporary outdoor seasonal sales; Definition and regulations.

Temporary Outdoor Seasonal Sales. The outdoor sale of, including but not limited to, firewood, nuts, pumpkins, gourds, wreaths, dried corn stalks, square hay bales; holiday trees, art, crafts,

flowers, gifts and similar seasonal products ("Seasonal Products"). This definition does not include sale of Livestock (i.e., equine, cattle, sheep, goats, lambs, pigs, etc.). fowl, rodents, reptiles, amphibians, or any other animals.

1. Seasonal Products may be sold during periods as approved by the Building Official at the time of permit application. Each permit shall be issued for no more than ninety (90) consecutive days. Temporary outdoor seasonal sales are only permitted in non-residential, mixed-use zoning districts or other locations as approved by the Building Official. These regulations do not apply to temporary outdoor sales as part of a permitted special event.
2. Each permit for temporary outdoor seasonal sales is one hundred (\$100.00) dollars. A permit holder shall obtain all required permits and approvals necessary for operations including but not limited to electrical, health and tent permits.
 - a. Written permission is required from the business or property owner of a property location.
 - b. A detailed site plan shall be provided with each application for approval.
 - c. Temporary lighting must meet the requirements of the City's Comprehensive Zoning Ordinance, as it currently exists or may be amended. Any lights located on the premises shall not flash, travel, blink, fade, move, or scroll.
 - d. Accessible routes to building elements including parking spaces, sidewalks and pedestrian access ramps shall meet the Americans with Disabilities Act requirements as they currently exist or may be amended. Three (3) feet minimum clearance is required for all accessible routes. Fire lanes, fire hydrants and other building access for emergency services shall not be blocked or obstructed.
 - e. One temporary sign or banner may be displayed during the permitted time without an additional sign permit.
 - f. Off-street parking must be provided on site and be constructed of concrete or of an approved all-weather surface.
 - g. Public sanitary toilets and public hand-washing facilities shall be required within two hundred fifty (250) feet of a temporary outdoor seasonal sale. Such facilities shall be available to the public during all periods of outside sales operations.
3. Building Official may revoke or suspend permitted temporary outdoor seasonal sales on the basis of incorrect information provided for permit issuance, or where it is determined that the operations effect the health or safety of the public. This includes but is not limited to noise disturbances, inadequate parking, impeding traffic in the public right of way or obstruction of access to adjacent businesses.

Sec. 22-272 Temporary tent permit; Definition and regulations.

Temporary Tent. A temporary shelter or umbrella structure, constructed of fabric or pliable material supported in any manner except by air or the contents it protects. This definition does not include shelters or umbrella structures protecting less than four hundred (400) square feet or installations on lots of one- and two-family dwellings.

1. A permit is required for temporary tents. Each permit shall be issued for no more than fourteen (14) consecutive calendar days. Tents erected as part of a permitted temporary outdoor seasonal sale shall be issued for the duration of that permit.
2. Each permit for temporary tents on a property is seventy five (\$75.00) dollars. A permit holder shall obtain all required permits and approvals necessary for operations including but not limited to electrical, health and outdoor sales.
 - a. Written permission is required from the business or property owner of a property location.
 - b. A detailed site plan and tent floor plan shall be provided with each application for approval. A current flame propagation performance certificate shall be submitted with the permit application. Temporary Tents and uses within tents must comply with the Fire Code adopted by Frisco, as it currently exists or may be amended.
 - c. Temporary lighting must meet the requirements of the City's Comprehensive Zoning Ordinance, as it currently exists or may be amended. Any lights located on the premises shall not flash, travel, blink, fade, move, or scroll.
 - d. Accessible routes to building elements including parking spaces, sidewalks and pedestrian access ramps shall meet the Americans with Disabilities Act requirements as they currently exist or may be amended. Three (3) feet minimum clearance is required for all accessible routes. Fire lanes, fire hydrants and other building access for emergency services shall not be blocked or obstructed.
 - e. One temporary sign or banner may be displayed during the permitted time without an additional sign permit.
3. The Building Official may revoke or suspend permitted Temporary Tent on the basis of incorrect information provided for permit issuance, or where it is determined that the operations effect the health or safety of the public. This includes but is not limited to inadequate parking, impeding traffic in the public right of way or obstruction of access to adjacent businesses.

Sec. 22-273 Notice of Violation In the event any owner, tenant, agent or person (hereinafter "owner") responsible for or claiming or having supervision or control over a temporary outdoor sale, temporary outdoor seasonal sale or temporary tent fails to comply with provisions of this article, the City shall give notice of the violation to such owner. Such notice shall be given to the owner in any one of the following ways:

1. Verbal or written to the owner or responsible person;
2. By posting notice at the site or sale location; or
3. By letter addressed to the responsible owner on said application and/or property owner at premises as recorded in the appraisal district records of the appraisal district in which the property is located.

Sec. 22-274 Citations; work or improvements by the City of Frisco; charges against owner. Any person, owner, tenant, or agent, responsible for or claiming or having supervision or control of any temporary outdoor sales, temporary outdoor seasonal sale or temporary tent over real property who shall violate a provision of this code, or fail to comply therewith, or with any of the

requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Sec. 22-275 Appeals. An administrative decision issued in connection with the requirements of this Article, including denial of issuance, revocation or suspension of a permit required by this Article, is final unless the applicant or permit holder submits a written request for an appeal to the City Manager. The appeal shall be filed in writing within ten (10) calendar days of the date of notice of the administrative decision. At least two (2) business days before the appeal hearing occurs, the City shall provide the applicant or permit holder with notice of the time and place of the hearing. The applicant or permit holder shall be permitted to attend and be heard at the hearing. The City Manager or designee shall hear and rule on the appeal within thirty (30) calendar days after notice of the appeal. The City Manager or designee shall have the authority to reverse a decision of the Director or designee where he finds that the basis for such decision was not meritorious and that such a reversal will not adversely affect the public health, safety or welfare. The decision of the City Manager or designee is final. The City Manager's or designee's failure to take action on any such appeal shall constitute approval of the decision by the Director or designee.

Sec. 22-276 Enforcement and interpretation; privilege. The Building Official is hereby authorized and directed to enforce the provisions of this article. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

Sec. 22-277 Through Sec. 22-301. (Reserved)"

SECTION 4: Penalty. Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding Two Thousand Dollars (\$2,000.00) if the violation relates to zoning, the public health, sanitation or dumping of refuse; otherwise, the fine shall be in an amount not exceeding Five Hundred Dollars (\$500.00). Frisco also may recover a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each violation of any provision of this Ordinance if Frisco proves that: (a) the person, firm, corporation or business entity was actually notified of the provisions of this Ordinance; and (b) after the person, firm, corporation or business entity received notice of the provisions of this Ordinance, the person, firm, corporation or business entity committed acts in violation of the provisions of this Ordinance or failed to take action necessary for compliance with the provisions of this Ordinance. Each calendar day any violation of this Ordinance continues shall constitute a separate offense. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 5: Savings/Repealing. The Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof regardless of whether any one or more sections, subsections, sentences, clauses and/or phrases may be declared unconstitutional and/or invalid.

SECTION 7: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

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DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 18th day of April, 2023.



Jeff Cheney
Jeff Cheney, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

Kristi Morrow
Kristi Morrow, City Secretary

APPROVED AS TO FORM:

Aliceson Cotton

Abernathy Roeder Boyd & Hullett, P.C.
Aliceson Cotton, City Attorneys

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