

Chapter 4 – Business and Commerce

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ARTICLE 04.01.00. ITINERANT VENDORS

Sec. 04.01.01. Purpose

- A. Reasonable regulation of vending on public ways and in public places is necessary to protect the public health, safety and welfare. To protect local residents against trespassing by Peddlers, Solicitors, and Vendors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive merchandise or services.
- B. The regulations contained in this ordinance are not intended in any way to prohibit or hamper speech that is protected by the constitution of both the United States and the State of Texas but merely to regulate specific activities, which are commercial in nature. This entire ordinance is and shall be deemed an exercise of the police power of the State of Texas and of the City of Bayou Vista for the process set forth above.

Sec. 04.01.02. Definitions

- 1. *Peddlers, Solicitors, and Vendors* shall mean any person firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a business of selling or offering for sale, food, beverages, goods, services, wares and merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery.
- 2. *Motor Vehicle* shall mean any vehicle used for the displaying, storing, or transportation of articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles. This term is to include, but not limited to, trailers, trucks, buses, and automobiles.
- 3. *Special Event* shall mean any occasion including, but not limited to, fairs, shows, exhibitions, citywide celebrations, festivals, etc., sponsored by a non-profit organization(s) within a specifically defined area of the city for a period of time not to exceed five (5) consecutive days.
- 4. *Public Place* shall mean any public road, street, alley, park, building, or other property of the city or any other place to which people commonly congregate for the purpose of business, recreation, or amusement.
- 5. *“Door-to-door selling”* shall mean going to one or more residence within the City in person or by the agent for the purpose of peddling, soliciting, or vending, who engages in a business of selling or offering for sale, food, beverages, good, services, wares and merchandise or engages in soliciting orders for the sale of goods, services, wares and merchandise for future delivery.
- 6. *Merchandise* is used in its broadest sense and shall include property of every kind.
- 7. *Services* is used in its broadest sense and shall include any work done for the benefit of another person.

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Sec. 04.01.03. No Solicitation Sign

- A. It is an offense under this chapter for any person to ring the doorbell, knock upon the door, or create any sound for the purpose of attracting the attention of the occupants of the residence if there is placed on such premises in a conspicuous place upon or near the main entrance to the residence, a weatherproof sign, not less than twelve square inches in size, bearing the words, “No Solicitation” or “No Soliciting.” The letters on such sign shall be not less than two-thirds of an inch in height.

Sec. 04.01.04. Health Permit

- A. Any vendor who engages in the business of selling or offering for sale any food or beverage will be required to submit a copy of a valid health permit to the City Secretary in addition to vending permit and payment of fees. A non-profit organization participating in a Special Event concerning the sale/donation of food or beverage is exempt from providing a copy of a valid health permit.

Sec. 04.01.05. Issuance of Permit Required and Payment of Fees

- A. It shall be unlawful for any vendor or solicitor to engage in the business of selling, displaying, or offering for sale any food, beverage, goods, services or merchandise at any public place within the City of Bayou Vista without first obtaining a \$50.00 permit from the City Secretary. A non-profit organization sponsoring or participating in a Special Event is exempt from obtaining a permit.

Sec. 04.01.06. Temporary Vending Permits – Special Events

- A. Vendors, other than the non-profit organization(s) sponsoring the event, wishing to conduct business at any special event shall apply to the City for a Temporary Vending Permit. Application for such a permit must be made at least seven (7) days prior to the beginning of the event. The permit is valid only for the duration of the special event. The fee for issuance of a Temporary Vending Permit shall be \$25.00 payable to the City Secretary at the time of issuance.

Sec. 04.01.07. Duration of Permit and Display

- A. The permit provided for in this article shall continue so long as the licensee is conducting business in the city, but in no event shall it continue for more than one year from the date of its issuance. Such permit shall be prominently displayed in a conspicuous place.

Sec. 04.01.08. Penalty

- A. Any person who shall violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$200, or the maximum allowed by law, whichever is greater, per offense. Each day of violation shall constitute a separate offense. (Ordinance 2014-01 – 06-24-14 – Repealing/Adopting Art. 4.100 in its entirety.)

NOTE: **Ordinance 2016-01**, amending Chapter 4 of the Code of Ordinances, of the City of Bayou Vista, Texas, was approved at the Regular Called Meeting of City Council on 01-26-16 for the purpose to provide continuity with the numbering system with all the Articles and Sections within the Chapter and to replace the word “village” for the word “City.”

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ARTICLE 04.02.00. SEXUALLY ORIENTED BUSINESS

Sec. 04.02.01. Authority

- A. These regulations are adopted by the Board of Aldermen of the City of Bayou Vista, Texas, acting in its capacity as governing body of City of Bayou Vista, Texas. Authority of the City of Bayou Vista to adopt these regulations is Chapter 243 of the Local Government code of the State of Texas, effective September 1, 1987. (Ord. No. 91-8 § 1, 4-30-1991)

Sec. 04.02.02. Administration

- A. The Board of Aldermen hereby designates the Mayor of the City of Bayou Vista to inspect and issue permits. These permits may only be issued after concurrence from the Board of Aldermen at a regular meeting. (Ord. No. 91-8 § 2, 4-30-1991)

Sec. 04.02.03. Definitions

1. *Adult bookstore.* An establishment whose primary business is the offering to customers of books, magazines (whether for viewing off premises or on premises) or other printed or pictorial materials which are intended to provide sexual stimulation or sexual gratification.
2. *Adult cabaret.* An establishment whose primary business is the offering to customers of live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers.
3. *Adult modeling studio.* An establishment whose primary business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers.
4. *Adult movie theater.* An establishment, containing a room with tiers or rows of seats facing a screen, or projection area, whose primary business is the exhibition to customers of motion pictures which are intended to provide sexual stimulation or sexual gratification to such customers.
5. *Adult movie or video arcade.* An establishment, whose primary business is providing individual coin-operated (or otherwise operated) machines or equipment of the viewing of films, video tapes, etc., the intent of which is to provide sexual stimulation or sexual gratification to customers.
6. *Adult video store.* An establishment whose primary business is the offering of video tapes (whether for viewing off premises or on premises by use of motion picture machines or other image producing devices) which are intended to provide sexual stimulation or sexual gratification to customers.
7. *Adult lounge.* An adult cabaret as defined above which is permitted or licensed premises pursuant to the Texas Alcoholic Beverage Code where alcoholic beverages may be served or sold.

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8. *Child care facility.* A building used as a day nursery, children's boarding home, child placing agency or other place for the care of custody of children under fifteen (15) years of age, licensed by the State of Texas pursuant to Article 4442a, Vernon's Texas Civil Statutes.
9. *Church or place of religious worship.* A building in which persons regularly assemble for worship, intended primarily for purposes connected with faith, or for propagating a particular form of belief.
10. *Love parlor.* An establishment whose primary business is the provision of premises where customers either congregate, associate, or consort with employees with the intent of providing sexual stimulation or sexual gratification to such customers.
11. *Massage parlor.* An establishment whose business is the provision to customers, or massages that are so provided with the intent of providing sexual stimulation or sexual gratification to such customers.
12. *Nude studio.* An establishment whose primary business is the provision of premises for the filming of persons for either photographs, films, videos, etc. with the intent to provide sexual stimulation or sexual gratification.
13. *Person.* An individual, partnership, corporation or other entity.
14. *Public park.* A tract of land maintained by the federal, state, or local government for the recreation and enjoyment of the general public.
15. *Residential.* Pertaining to the use of land, for premises such as homes, townhomes, patio homes, mobile homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein. A premises which is designated primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes, hospitals, and nursery schools shall not be considered to be residential.
16. *School.* A building where persons regularly assemble for the purpose of instruction or education together with the playgrounds, dormitories, stadiums, and other structures or grounds used in conjunction therewith. (Ord. No. 91-8, § 3, 4-30-1991)

Sec. 04.02.04. Sexually oriented business.

- A. A sexually oriented business shall be considered as a massage parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult movie or video arcade, adult video store, adult cabaret, adult lounge or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer. (Ord. No. 91-8 § 4, 4-30-1991)

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Sec. 04.02.05. Permit required.

- A. It shall be unlawful for any person to own or operate a sexually oriented business at any location in the City of Bayou Vista without a valid permit issued therefore by the mayor in accordance with this article.
- B. Before the issuance of a permit, the applicant must certify that the proposed sexually oriented business will be located a minimum of fifteen hundred (1,500) feet from the following which is inconsistent with the operation of a sexually oriented business:
 - 1. A school.
 - 2. A church or place of religious worship.
 - 3. A residence.
 - 4. A public park.
 - 5. A child care facility.
 - 6. A hospital.
 - 7. A public building.
- C. The applicant must further certify that the proposed sexually oriented business will be located a minimum of one thousand (1,000) feet from any other sexually oriented commercial enterprise.
- D. Measurements for the distance requirements above shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of the above mentioned facilities. (Ord. No. 91-8, § 5, 4-30-1991)

Sec.0 4.02.06. Permit displayed

- A. A sexually oriented business permit issued under these regulations shall be displayed at all times in an open and conspicuous place in the establishment for which it was issued. (Ord. No. 91-8 § 6, 4-30-1991)

Sec. 04.02.07. Permit application.

- A. Any person desiring a sexually oriented business permit shall file a written application with the mayor's office on a form to be prescribed by him.
- B. The application shall set forth the following:
 - 1. The name of the applicant and whether the applicant is an individual, general partnership, limited partnership, corporation, or other entity;
 - 2. The name under which the establishment is to be operated and a general description of the service to be provided;

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3. The address and a full legal description of the parcel of land on which the restricted establishment is to be located;
 4. The name, residence address and telephone number, if any, of the manager or other individual to be principally in charge of the operation of the establishment;
 5. Written declaration that the information contained in the application is true and correct, said declaration being duly dated and signed in the county. If the applicant is an individual, the application shall be signed and sworn to by the applicant. If the applicant is a partnership, the application shall be signed and sworn to by a partner thereof. If the applicant is a corporation or other entity, the application shall be signed and sworn to by an authorized officer of such corporation or entity.
- C. The application shall be accompanied by the following:
1. A tender of the correct permit fee as provided for in the fee schedule found in the appendix of this Code.
 2. A certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (Vernon's Texas Codes Annotated, Business and Commerce Code, Chapter 36) if the applicant is to operate the restricted establishment under an assumed name.
 3. A certified copy of the Article of Incorporation, together with all amendments thereto, if applicant is a Texas Corporation.
 4. A certified copy of the certificate of authority to transact business in this state, together with all amendments thereto, if applicant is a foreign corporation.
 5. A certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the Secretary of State under The Texas Limited Partnership Act (Article 612a Vernon's Texas Civil Statutes), if the applicant is a limited partnership formed under the laws of Texas.
 6. A certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the office of the secretary of state under the Texas Limited Partnership Act, if the applicant is a foreign limited partnership. (Ord.No.91-8,§7,4-30-1991)

Sec. 04.02.08. Investigation by mayor's office.

- A. Upon receiving the application for a sexually oriented commercial enterprise permit, the mayor's office shall have cause to conduct an investigation to ascertain compliance with these regulations. (Ord. No. 91-8 § 8, 4-30-1991)

Sec. 04.02.09. Term of permit, renewal.

- A. Each permit shall be valid for a period of one (1) year and shall expire on the anniversary of its date of issuance, unless sooner revoked, or surrendered. Each permit shall be subject to renewal as its expiration date by the filing of a renewal application with the director. Renewal applications must be filed at least twenty (20) days prior to the expiration date of the permit that is to be renewed. (Ord. No. 91-8 § 9, 4-30-1991)

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Sec. 04.02.10. Exempt business.

- A. The following are exempt from regulation under this article:
1. A bookstore, movie theater, or video store unless that business is an adult bookstore, adult movie theater, or adult video store;
 2. A business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held; or
 3. A business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts. (Ord. No. 91-8, § 10, 4-30-1991)

Sec. 04.02.11. Enforcement

- A. In accordance with Chapter 243 of the Local Government Code of State of Texas:
1. The city may sue in district court for an injunction to prohibit the violation of a regulation under this article.
 2. A person commits an offense if the person violates a regulation under this article. Any such offense is a Class B misdemeanor. (Ord. No. 91-8, § 11, 4-30-1991)

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