

ORDINANCE NUMBER 737

AN ORDINANCE AMENDING THE CITY CODE OF ORDINANCES BY REGULATING VENDORS IN THE CITY RIGHT-OF-WAY OF THE CITY OF LA MARQUE, TEXAS

BE IT ORDAINED BY THE CITY COUNCIL OF LA MARQUE, TEXAS.

Section 1. Findings and Purpose

It is found and declared that:

- (a) The primary purpose of the public streets, sidewalks, and other public ways is for use by vehicular and pedestrian traffic;
- (b) Vending on such public ways promotes the public interest by contributing to an active pedestrian environment;
- (c) Reasonable regulation of vending on public ways is necessary to protect the public health, safety, and welfare; and
- (d) The regulations contained in this ordinance are not intended to prohibit or hamper speech which is protected by the First Amendment, but merely to regulate specific activities which are commercial in nature.

Section 2. Definitions:

- (a) "Motor vehicle" shall mean any vehicle used for the displaying, storing, or transporting of articles for sale by a vendor which is required to be licensed and registered by the state department of motor vehicles. The term is to include trailers, trucks, and automobiles.
- (b) "Public way" shall mean all areas legally open to public use such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the interior and areas surrounding public buildings.
- (c) "Special event" shall mean any occasion including, but not limited to fairs, shows, exhibitions, city-wide celebrations, festivals, etc. within a specifically defined area of the City of La Marque, Texas, for a period of time not to exceed four days.
- (d) "Stand" shall mean any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered by the department

of motor vehicles, and is used for the display, storage, or transportation of articles offered for sale by a vendor.

- (e) "Vendor" shall mean any individual, including an employee or agent of a group of individuals, partnership, or corporation, who sells or offers to sell food, beverages, goods, or merchandise on any public way from a stand, motor vehicles, or from his or her person.

Section 3. License Required.

It shall be unlawful for any vendor to sell, display, or offer for sale any food, beverage, goods, or merchandise on a public way within the City of La Marque, Texas, without first obtaining a license from the City Clerk.

Section 4. Application.

The application for a vendor's license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

- (a) Full name, home address, permanent business address (if any), telephone number, driver's license number, three copies of a current full-face photograph, and proof of identity;
- (b) A brief description of the nature, character, and quality of food, beverages, goods, or merchandise to be sold;
- (c) The specific location, if any, in which the vendor intends to conduct business;
- (d) If vendor is employed by or is an agent of another, the name and business address of the principal/hiring person, firm, association, organization, company or corporation.
- (e) If a motor vehicle is to be used in the vending business, a description of the vehicle together with the motor vehicle registration number and the license number;
- (f) A complete listing of any other licenses or permits issued to applicant by the City of La Marque, Texas, within the past five years.

Section 5. Health Permits.

The application of any vendor engaged in the sale of food or beverages shall also be referred to the local health department for

approval of a health permit in addition to the regular vending license. Such vendor's equipment shall be subject to inspections by the health department at the time of application and at periodic intervals thereafter.

Section 6. Issuance of License.

Not later than 30 days after the filing of a completed application for a vendor's license, the applicant shall be notified in writing by the license officer of the decision on the issuance or denial of the license. If the vendor applicant complies with all application requirements and is found to have no nonconformities rationally related to sales on public ways in the City of La Marque, Texas, the applicant shall be issued a vendor's license. If a food and beverage applicant meets the prior requirements, and receives health department approval, then such applicant shall be issued both a vending license and a health permit. Any applicant denied a vending license may seek an appeal pursuant to Section 14. A vending license is valid for a period of one year from the date of issuance.

Section 7. Special Events.

Vendors wishing to conduct business at any special event shall apply to the city for a Temporary Vending License. Application for such a license must be made at least 10 days prior to the beginning of the event. The license is valid only for the duration of the special event. Fees for such licenses shall be as specified in Section 9. Vendors granted a temporary license are subject to the same operating regulations as other vendors, except where otherwise specified.

Section 8. Exemptions.

The following vendors are exempt from the licensing requirements of Sections 3 and 6, but shall otherwise be required to comply with the provisions of this ordinance:

- (a) All religious, non-profit, and charitable organizations, including school groups, and vendors as part of events hosted and organized by such organizations as listed within this section;
- (b) The sale of fresh produce by the grower of such produce;
- (c) Vendors, merchants, exhibitors, and salesman who exhibit, demonstrate, or solicit orders for goods in conjunction with, and as part of, the organized program of conventions, professional meetings, seminars, etc.; and
- (d) Any individual selling newspaper or magazines, or

distributing free samples from his or her person.

Section 9. Fees.

Each vendor granted a license under this ordinance shall pay an annual license fee of \$100.00. Vendor granted Temporary Vending Licenses for special events shall pay a fee of \$10.00 per day of vending permitted.

Section 10. Insurance or Bond.

No license shall be issued to an applicant unless the applicant furnishes proof to the City of a public liability bond or insurance policy in an amount not less than \$100,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business.

Section 11. Licenses and Identification Badges.

- (a) The license issued to a vendor shall be carried with the vendor at all times when he or she is engaged in the business of vending. If the vendor sells food or beverages, the health permit must also be displayed.
- (b) In addition to the license, the City shall issue an identification badge to every vendor. Vendors shall display their badges in such a way that the badges may be easily read, while doing business. If a badge becomes damaged or obscured, the vendor shall return it to the City and receive another badge.
- (c) Licenses, permits, and identification badges shall be used only by the person to whom they were issued and may not be transferred to any other person.

Section 12. Restrictions Applicable to All Vendors.

- (a) Stands. Vendor stands shall not:
 - (1) Exceed 10 feet in length, 10 feet in width, or 10 feet in height
 - (2) Impede access to the entrance or driveway of any adjacent building;
 - (3) Occupy more than half of the available sidewalk width or 1 foot of such sidewalk, whichever is less.

- (b) Hours of Operation. Vendors shall be allowed to engage in the business of vending only between 8:00 a.m. and 5:00 p.m. All vending stands must be removed from public property during non-vending hours. When Temporary Vending Permits are sought for special events, etc. (see Section 7), the application may request from the City an exception to the usual hours of operation. All stands used for vending must be removed from public property during non-operating hours.
- (c) Handicapped area. No vendor shall conduct business within 10 feet of any handicapped parking space or access ramp.
- (d) Removal of trash. All trash or debris accumulating within 6 feet of any vending stand shall be collected by the vendor and deposited in a trash containers. All vendors selling food or beverages must provide trash receptacles adjacent to or as a part of their stands.
- (e) Prohibited areas. A vending license issued pursuant to this ordinance is valid only on the public ways of the City of La Marque. The City shall prohibit vendors from selling in specified public ways if it determines such prohibitions are necessary for the protection of public health and safety. Vendor stands and motor vehicles are prohibited within 15 feet of a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, or hospital.
- (f) Noise. No vendor may sound any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.
- (g) Motor vehicles. No vendor vending from a motor vehicle shall:
 - (1) Stop, stand or park the vehicle within 30 feet of any intersection, within any other prohibited area, or during prohibited hours;
 - (2) Conduct business in such a way as would increase traffic congestion or delay, constitute a hazard to life or property, interfere with an abutting property owner, or obstruct access to emergency vehicles.
- (g) Pushcarts. Vendors utilizing pushcarts or other mobile, non-motorized vending stands may only conduct business in each location for a period of ten minutes at a time. At the

end of that period, such vendors must move to a new location at least 50 feet from the previous location. Pushcart vendors who do not adhere to these regulations will be considered fixed-location stand vendors, and will be assigned to a fixed location.

Section 13. Suspension or Revocation of License.

- (a) Any license issued under this ordinance may be suspended or revoked for any of the following reasons:
- (1) Fraud or misrepresentation in the application or the license;
 - (2) Fraud or misrepresentation in the course of conducting the business of vending;
 - (3) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare;
 - (5) Conviction of any crime involving moral turpitude while holding a vending license from the City of La Marque, Texas;
 - (6) Cancellation of Health Department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.
- (b) Upon suspension or revocation, the City shall deliver written notice to the license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.

Section 14. Appeals.

Persons whose licenses have been suspended or revoked may appeal by filing a written notice of appeal with the City Council.

Section 15. Renewals.

Licenses may be renewed, provided an application for renewal and license fees are received by the City no later than the expiration date of the current license. Applications received after that date shall be processed as new applications. The City shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this ordinance. If the City finds that the

application meets the above requirements, the City shall issue a new license.

Section 16. Penalties.

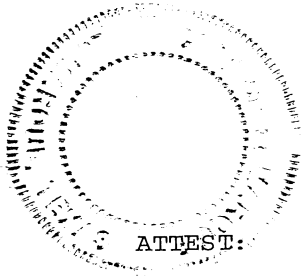
Any person who violates any provision of this ordinance shall be punished by a fine not to exceed \$200.00.

Section 17. Severance Clause.

The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the validity of any part.

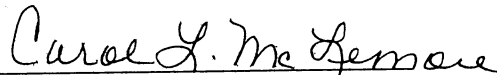
PASSED AND APPROVED on first reading this the 12th day of October, 1992.

PASSED AND ADOPTED on second and final reading this the 9th day of November, 1992.




Pete W. Rygaard,
Mayor

ATTEST:


Carol L. McLemore,
City Clerk