



**City Council**

Mayor  
Jim Fairchild

Council President  
Brian Dalton

Councilor  
Warren Lamb

Councilor  
Jackie Lawson

Councilor  
Kevin Marshall

Councilor  
Wes Scroggin

Councilor  
David Shein

Councilor  
David Voves

Councilor  
LaVonne Wilson

Councilor  
Ken Woods, Jr.

**Staff**

City Manager  
Jerry Wyatt

Asst. City Manager  
Kim Marr

City Attorney  
Lane Shetterly

Community Development  
Director  
Jason Locke

Finance Director  
Cecilia Ward

Fire Chief  
Bill Hahn

Police Chief  
John Teague

Public Works Director  
Fred Braun

City Recorder  
Emily Gagner

# Dallas City Council Agenda

Monday, June 7, 2010, 7:00 p.m.  
Mayor Jim Fairchild, Presiding  
Dallas City Hall  
187 SE Court Street  
Dallas, Oregon 97338

*All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. If you wish to speak on any agenda item, please sign in on the provided card.*

<u>ITEM</u>	<u>RECOMMENDED ACTION</u>
1. ROLL CALL AND PLEDGE OF ALLEGIANCE	
2. QUESTIONS OR COMMENTS FROM THE AUDIENCE <i>This time is provided for citizens to address the Council or introduce items for Council consideration on any matters other than those on the agenda.</i>	
3. PUBLIC HEARINGS <i>Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.</i>	
a. Public hearing on the 2010-2011 City of Dallas Budget and use of state revenue sharing funds. <b>p. 3</b>	Public Hearing
4. CONSENT AGENDA <i>The following items are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered separately.</i>	
a. Approval of May 17, 2010 City Council Minutes <b>p. 7</b>	
b. Acknowledge report of May 24 Administrative Committee Meeting (action items addressed under Items 8a, 9b, 9c, and 10a) <b>p. 10</b>	
c. Acknowledge report of May 24 Building & Grounds Committee Meeting (action item discussed under Agenda Item 9a) <b>p. 43</b>	
d. Acknowledge report of May 25 Parks and Recreation Board meeting <b>p. 48</b>	
e. Acknowledge final energy savings report for Dallas Aquatic Center <b>p. 52</b>	
5. ITEMS REMOVED FROM CONSENT AGENDA	

# Dallas City Council Agenda

## Page 2

### Our Vision

*Our vision is to foster an environment in which Dallas residents can take advantage of a vital, growing, and diversified community that provides a high quality of life.*

### Our Mission

*The mission of the City of Dallas is to maintain a safe, livable environment by providing open government with effective, efficient, and accountable service delivery.*

### Our Motto

*Commitment to the Community.  
People Serving People.*

Dallas City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

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6. REPORTS OR COMMENTS FROM THE COUNCIL MEMBERS

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  7. REPORTS FROM CITY MANAGER AND STAFF
    - a. Discussion concerning City insurance coverage [p. 58](#) Motions
    - b. Chamber Summerfest request [p. 67](#) Information
    - c. Other

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  8. RESOLUTIONS
    - a. [Resolution No. 3200](#): A Resolution establishing a schedule of fees to be paid for certain Community Development Department land use and zoning permits and services. [p. 69](#) Roll call vote
    - b. [Resolution No. 3201](#): A Resolution adopting an amended Affirmative Action Policy and repealing Resolution No. 2226 (1980) and the Affirmative Action Plan adopted thereby. [p. 72](#) Roll call vote

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  9. FIRST READING OF ORDINANCE
    - a. [Ordinance No. 1724](#): An Ordinance amending provisions of the Dallas City Code Sections 3.740, relating to removal of street trees; and repealing prior conflicting ordinances. [p. 74](#) First reading
    - b. [Ordinance No. 1725](#): An Ordinance amending and restating Chapter 7 of the Dallas City Code relating to "Business;" and repealing certain provisions. [p. 79](#) First reading
    - c. [Ordinance No. 1726](#): An Ordinance authorizing criminal background checks of applicants for certain business licenses, permits, and registrations subject to regulation under Dallas City Code Chapter 7. [p. 134](#) First reading

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  10. SECOND READING OF ORDINANCE
    - a. [Ordinance No. 1720](#): An Ordinance amending Dallas City Code 6.610 regarding recreational vehicle parking permits; and repealing conflicting provisions. [p. 135](#) Roll call vote

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  11. OTHER BUSINESS

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  12. ADJOURNMENT

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**Note:** Following the Council meeting, there will be an Executive Session to deliberate with persons designated by the governing body to negotiate real property transactions as authorized in ORS 192.660(2)(e).

There will also be a meeting of the Urban Renewal District Board of Directors following the Council meeting.

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No.</b> <b>3 a</b>	<b>Topic:</b> 2010-2011 Budget
<b>Prepared By:</b> Emily Gagner	<b>Meeting Date:</b> June 7, 2010	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> Jerry Wyatt		

RECOMMENDED MOTION:

A Public Hearing should be held to discuss the 2010-2011 Budget and the use of State Revenue Sharing funds. The amount of State Revenue Sharing funds included in this year's budget is \$110,000.

A motion should be made to approve the 2010-2011 City of Dallas Budget as approved by the Budget Committee. The City Manager should be directed to have the City Attorney prepare the resolution to adopt the budget at the June 21, 2010 Council meeting.

BACKGROUND:

The property tax rate to be imposed is the permanent rate of \$4.1954 per \$1,000 of assessed value. The levy to be imposed for debt service on General Obligation bonds is \$734,082.

FISCAL IMPACT:

Adoption of the budget allows for expenditures in the 2010-2011 fiscal year.

ATTACHMENTS:

Minutes from Budget Committee meeting on May 17

Chair Bob Ottaway called the meeting to order at 7:45 p.m. and roll call was taken.

Budget Committee members present: Chair Bob Ottaway, Jim Brown, Pete Christensen, Sam Collins, Kelly Gabliks, Lynn Hurt, Tom Martin, Bob Ottaway, Glen Scatterday, and Rich Wolcott.

Councilors present: Brian Dalton, Warren Lamb, Jackie Lawson, Kevin Marshall, Wes Scroggin, David Shein, Dave Voves, and Ken Woods, Jr. Excused: LaVonne Wilson

Also present were: Mayor Jim Fairchild, City Manager Jerry Wyatt, Assistant City Manager Kim Marr, Fire Chief Bill Hahn, Police Chief John Teague, Finance Director Cecilia Ward, Community Development Director Jason Locke, and Recording Secretary Emily Gagner.

MINUTES OF APRIL 19, 2010, MEETING:

It was moved by Mr. Hurt and seconded by Ms. Gabliks to approve the minutes of the April 19, 2010, Budget Committee meeting. The motion carried unanimously.

REPORTS FROM THE SUBCOMMITTEES:

Administrative Subcommittee:

Chair Ken Woods, Jr. reported that the Administrative Subcommittee met on May 6, 2010. He reviewed the pages discussed and noted that the Committee approved all the pages reviewed.

It was moved by Mr. Woods and seconded by Mr. Marshall to adopt the recommendations of the Administrative Subcommittee. The motion carried unanimously.

Building and Grounds Subcommittee:

Acting Chair Ken Woods, Jr. reported that the Buildings and Grounds Subcommittee met on May 6, 2010. He reviewed the pages the Subcommittee went over and indicated that no changes were made and there was consensus to approve the budget as presented.

It was moved by Mr. Woods and seconded by Mr. Shein to accept the Building and Grounds pages. Mr. Wyatt pointed out that there was a minor change made on the Library page, moving \$1,000 from the miscellaneous to the travel & education line item, though the bottom line remained the same. The motion carried unanimously.

Public Safety Subcommittee:

Chair Warren Lamb reported that the Public Safety Subcommittee met on April 26, 2010. He reviewed the pages covered.

It was moved by Mr. Lamb and seconded by Ms. Lawson to approve the Public Safety budget pages. Mr. Wyatt pointed out there was a change made to the Ambulance face page and explained the 09-10 numbers were updated to include the budget amendments passed in April. Ms. Gabliks asked if staff found out whether the City should move away from self-insurance on big-ticket

1 items. Mr. Wyatt indicated he would discuss that with the City's Agent of Record. The motion  
2 carried unanimously.

3 Public Works Subcommittee:

4 Chair Wes Scroggin reported that the Public Works Committee met on April 26, 2010. He re-  
5 viewed the discussion. Mr. Scroggin thanked the staff for their reports at the subcommittee meet-  
6 ings. He noted the new budget format was easier to work with and understand. He noted the  
7 committee made no changes to the pages. He thanked the public members of the Budget Commit-  
8 tee for their time.

9 It was moved by Mr. Scroggin and seconded by Mr. Marshall to adopt the Public Works budget  
10 pages. Mr. Wyatt pointed out that staff corrected the Water face page to reflect 8 FTE. Ms. Gab-  
11 likis indicated several Fire Department employees had talked to her about the purchase of new ve-  
12 hicles. She mentioned the process to purchase new police vehicles and ambulances, but wondered  
13 what the City would do for big ticket items such as fire trucks. Mr. Wyatt stated right now the  
14 plan is to go for a bond for large equipment, although everything like duty trucks would be pur-  
15 chased through the Fleet Maintenance program. The motion carried unanimously.

16 PUBLIC HEARING:

17 Chair Ottaway declared open at 7:53 p.m. a public hearing to solicit comments on the 2010-2011  
18 City of Dallas Budget and proposed use of state revenue sharing funds.

19 Eriks Gabliks indicated he was not speaking in an official capacity for the Fire Department. He  
20 shared his thoughts on the importance of including the logistics position in next year's budget. He  
21 stated that position has a very large impact on the department in that the position maintains all the  
22 equipment and completes the inspections for the equipment. He added the volunteer coordination  
23 duties are important in that position in order to maintain adequate volunteer levels as well as to  
24 provide a fourth responder during daytime calls. Chair Ottaway noted Chief Hahn also did a good  
25 job explaining the importance of that position at the subcommittee meeting.

26 There were no further comments from the audience, so Chair Ottaway declared the public hearing  
27 closed at 7:57 p.m.

28 ADOPTION OF BUDGET AND RECOMMENDATION TO CITY COUNCIL:

29 It was moved by Mr. Hurt and seconded by Ms. Gabliks to adopt the 2010-2011 Budget as ap-  
30 proved by the Budget Committee, and recommend it to the City Council. The motion carried un-  
31 animously.

32 It was moved by Ms. Gabliks and seconded by Mr. Christensen to recommend to the City Council  
33 to approve the property tax rate of \$4.1954 per \$1,000 of assessed value and the levy to be im-  
34 posed for debt service on General Obligation bonds is \$734,082. The motion carried unanimously.

35 Mr. Christensen apologized for being out of the country during the budget deliberations and noted  
36 he did review the budget. He stated his concern about the budget is the Fire budget of \$752,000,

1 with a lot of the service going to citizens outside of the Dallas city limits. He said Mr. Hahn told  
2 him about 50 percent of their calls go to those outside of Dallas. Mr. Christensen commented that  
3 the City expects to receive \$148,000 from the Rural Fire District, but Rural Fire should pay about  
4 half of the \$752,000, or \$376,000. He stated the citizens of Dallas are paying more in costs than  
5 they are receiving for fire service. Mr. Christensen then discussed the Ambulance, where 40 per-  
6 cent of the calls are for areas outside of Dallas. He said the City expects to get reimbursed for  
7 about \$900,000 of the \$1.126 million budget, so forty percent of the \$200,000 shortfall should  
8 come from someplace other than the City. Mr. Christensen reported that between Fire and Ambul-  
9 ance, the citizens of Dallas provide \$318,000 to people living outside of the city limits. He com-  
10 mented that most citizens would probably not be okay with paying more than their fair share of  
11 taxes. He recommended the Council look at the issue before the next budget session. Ms. Gabliks  
12 stated that topic was brought up with Mr. Hahn in the Public Safety subcommittee meeting and  
13 Mr. Hahn indicated there were ongoing negotiations to get Rural to pay more. Chair Ottaway  
14 agrees it would take time.

15 There being no further business, the meeting was adjourned at 8:07 p.m.

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The Dallas City Council met in regular session on Monday, May 17, 2010, at 7:00 p.m. in the Council Chambers of City Hall with Mayor Jim Fairchild presiding.

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council members present: Council President Brian Dalton, Councilor Warren Lamb, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Wes Scroggin, Councilor David Shein, Councilor David Voves, and Councilor Ken Woods, Jr. Excused: Councilor LaVonne Wilson.

Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Assistant City Manager Kim Marr, Community Development Director Jason Locke, Fire Chief Bill Hahn, Finance Director Cecilia Ward, Police Chief John Teague, and Recording Secretary Emily Gagner.

Mayor Fairchild led the Pledge of Allegiance.

**QUESTIONS OR COMMENTS FROM THE AUDIENCE**

Mayor Fairchild asked for questions or comments from the audience on items other than those on the agenda. There were none.

**PUBLIC HEARINGS**

**REQUEST FOR AN OFF-PREMISE SIGN**

Mayor Fairchild opened a public hearing on a request for an off-premise sign at 7:05 p.m.

Mr. Locke reviewed the staff report for the request to allow an off-premise “shaker-board” sign as well for utilization of the right-of-way. He indicated Staff looked at potential issues, which were outlined in the staff report. He reminded the Council that whatever decision is made, it sets a precedent, and in all likelihood other businesses will make the same request. He indicated staff could not make a positive recommendation.

Councilor Marshall asked if the Council subcommittee reviewed the request. Mr. Shetterly stated the City Code allows a request to the Council. Councilor Scroggin asked if there would be issues at the corner of Ellendale and Main Street because of the state highway. Mr. Shetterly stated not if they stayed on the sidewalk.

Pat Mitchell, Manager of the Dallas Little Caesar’s, reported that in terms of using the right of way, he would only hire polite, kind people who would move out of the way of pedestrians. Councilor Marshall asked Mr. Mitchell if there was signage promised on the premise that was abandoned. Mr. Mitchell replied that they weren’t supposed to be any part of the signage. Councilor Lawson asked Mr. Mitchell if he had any documentation to know if his loss of business was from the loss of shakerboards or just a general business trend following the initial excitement of the new business. Mr. Mitchell stated Dallas is the only city that doesn’t allow shakerboards so he couldn’t judge that. He indicated most stores were down a little, but since he lost the shakerboards, his store was down quite a bit. In response to a question, Mr. Mitchell stated he knew of no hard evidence that shakerboards would increase business, but noted Little Caesar’s as a corporation believes the shakerboards help. Councilor Voves commented that the Council’s job was to deal with the sign code and use of right-of-way request, adding whether the business improved or declined was beside the point.

There was no other testimony and Mayor Fairchild closed the public hearing at 7:16 p.m.

Councilor Lawson indicated she would like the Council to do everything they could to support business. Mr. Locke commented that he sees a lot of pro-business policy by the Council.

It was moved by Councilor Voves and seconded by Councilor Lawson to approve the request for 2 shakerboards between the driveway of the establishment and Jasper Street on a three-month basis at which time the Council would review the request. Councilor Shein stated if the request is granted for three months, he would like to hear back from the business on the impact. Council

1 President Dalton indicated that implicit in the Council's approval would be to have staff render a  
2 report at the end of the three-month period. Mr. Shetterly advised the Council to set a specific  
3 ending date. Councilor Voves amended his motion to approve the request until September 1 and  
4 Councilor Lawson seconded the amendment. Council President Dalton asked what the Council  
5 should tell other business owners who requested the same thing. Mr. Shetterly stated the Council  
6 would probably have to allow them into the trial. He indicated once the Council establishes  
7 approval, they would have to have strong justification to not approve a similar request.  
8 Councilor Voves amended his motion to state only one shakerboard sign would be allowed and  
9 Councilor Lawson seconded the amendment. *The motion to allow one shakerboard sign*  
10 *between the driveway of Little Caesar's and Jasper Street until September 1, 2010, carried*  
11 *unanimously.*

## 12 **CONSENT AGENDA**

13 It was moved by Councilor Woods and seconded by Councilor Shein to approve the Consent  
14 Agenda as presented. The motion CARRIED UNANIMOUSLY.

15 Items approved by the Consent Agenda were: a) approval of May 3, 2010 City Council minutes;  
16 and b) acknowledge April monthly reports from departments.

## 17 **ITEMS REMOVED FROM CONSENT AGENDA**

## 18 **REPORTS OR COMMENTS FROM COUNCIL MEMBERS**

19 There were none.

## 20 **REPORTS FROM CITY MANAGER AND STAFF**

### 21 **AUDITOR SELECTION**

22 Mr. Wyatt reported that following the interviews with the top three audit firms, staff and the  
23 Council scored the firms. Based on that scoring, staff recommended appointing Merina &  
24 Company, LLP as the City's municipal audit firm.

25 It was moved by Council President Dalton and seconded by Councilor Lamb to approve a three-  
26 year contract with Merina & Company LLP. The motion carried unanimously.

### 27 **COUNCIL PROJECT**

28 Mr. Wyatt asked if the Council would be interested in adopting a project such as a park clean up,  
29 or cleaning up the Fire Station for the Father's Day breakfast, or something tied to the youth.  
30 The consensus of the Council was to move forward. Mr. Wyatt stated he would get some project  
31 ideas to the Council.

### 32 **OTHER**

33 Mr. Wyatt indicated that he and the Chamber had been working on a Ford Leadership Institute  
34 program which would provide the opportunity to go through four weekends of training. He  
35 noted the training would open the door for funding and would provide a good opportunity for  
36 leadership training for the community. He stated he would get more information to the Council  
37 in the future.

38  
39 Chelsea Pope, Executive Director of the Dallas Area Visitor's Center, reported that they would  
40 launch the Polk County Bounty Market on June 3. She said the excitement from the community  
41 has been overwhelming. Ms. Pope requested permission to work with City staff to close some  
42 parking stalls for short-term parking and visibility as well as the opportunity to bring in a  
43 commercial food vendor. In response to a question, Ms. Pope stated the market would run from  
44 3:00 to 7:00 p.m. every Thursday except Summerfest week from June 3 through August 26. It  
45 was moved by Councilor Voves and seconded by Councilor Lawson to allow the Visitor's  
46 Center to work with staff for parking stall closures during the Polk County Bounty Market. The  
47 motion carried unanimously.

1 **RESOLUTIONS**

2 **FIRST READING OF ORDINANCE**

3 **SECOND READING OF ORDINANCE**

4 **OTHER BUSINESS**

5 There being no further business, the meeting adjourned at 7:37 p.m.

6 Read and approved this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

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Mayor

ATTEST:

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City Manager

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Members Present: Chair Ken Woods, Jr., David Shein, and Dave Voves. Excused: Kevin Marshall

Also Present: City Manager Jerry Wyatt, Mayor Jim Fairchild, City Attorney Lane Shetterly, Community Development Director Jason Locke, Assistant City Manager Kim Marr, and Recording Secretary Emily Gagner.

Chair Woods called the meeting to order at 4:07 p.m.

**Special Business Licenses / Fees**

Mr. Locke reported that after the last committee meeting, he and Mr. Shetterly made a number of changes to the entire chapter as directed by the committee. He reviewed the changes and stated they also changed it so fees were adopted by resolution, not in the ordinance.

Mr. Shetterly explained that for the solicitation section of the Code, he offered two alternatives. The first alternative is just a rewritten version of what the City currently has, which requires registration for door-to-door solicitation. He noted one other change in the proposed version was in section 7.605. He stated he narrowed the definition of solicitation to cover only commercial solicitation. Mr. Shetterly then reviewed the second alternative, which rather than regulate solicitor registration through City Hall, would empower citizens to post no solicitation signs on their doors, and if someone ignores the sign, they have committed a violation. He indicated that alternative would be self-enforcing. In response to a question, he stated the City wouldn't prosecute religious people if they went to houses with no solicitation signs. Mr. Shetterly reported that the City would inform the citizens that if they posted a sign and were solicited, they could call police and the City could cite them. Councilor Shein commented that he liked the second alternative, noting the City could still sanction those who ignored the Code and it took the burden off staff. Councilor Woods indicated he was worried about making people put signs up on their house. Mayor Fairchild said he likes that citizens can ask someone for a copy of their registration papers with the current method. Councilor Woods commented that the registration process should scare the bad people away. Mr. Shetterly agreed that was the theory, but noted solicitors could still come in and solicit on the weekend and be gone before anyone is wise to them. Councilor Woods stated it bothered him to let the homeowner decide, because if the homeowner told the solicitor to get off their property they could get in a confrontation and he would hate to see a gun appear. Councilor Woods indicated that if the City did require registration, it must have an associated fee in order to break even. Councilor Shein stated the registration process only works if homeowners knew enough to ask for it. After further discussion, the consensus of the Committee was to proceed with registration of solicitors and to charge a \$50 fee.

Mr. Locke indicated he and Mr. Shetterly also cleaned up the itinerant merchant requirements. Mr. Shetterly reviewed the master license which would legitimize the farmer's market and Summerfest activities. Mr. Locke discussed the changes to the time limitation for this permit but noted there would be no limitation to get a new license for a new location. He clarified the restriction would be for three months per calendar year at the same location. Mr. Locke added that the new provision would be limited to commercial zones only.

Mr. Locke reviewed the miscellaneous fees proposed. He noted he would change the solicitation fee to \$50. Councilor Woods asked if the Code would delegate these permits to the City Manager. Mr. Shetterly reported that the master license for itinerant merchants would require Council approval. It was moved

1 by Councilor Shein and seconded by Councilor Voves to move the proposal forward to the Council for  
2 approval and include a resolution for the fees as discussed. The motion carried unanimously.

### 3 **Land Use Fees**

4 Mr. Locke reviewed his staff report. He noted a change he would like to make to the proposal. He stated  
5 that for the temporary use permit he would recommend changing the fee for Type II applications to \$200.  
6 It was moved by Councilor Voves and seconded by Councilor Shein to move the proposed land use fees  
7 to the Council with the change discussed. The motion carried unanimously.

### 8 **RV Parking**

9 Mr. Locke reviewed his staff report, explaining the changes that were made based on the discussion at the  
10 Council meeting. In response to a question, Mr. Locke explained this would apply to an RV on private  
11 property that would be occupied. Mr. Shetterly stated the committee should move the amendment into the  
12 ordinance, which would go back to the Council for a second reading. It was moved by Councilor Shein  
13 and seconded by Councilor Voves to move the amendment into the ordinance and place it for second  
14 reading. The motion carried unanimously.

### 15 **Finance Director's Report**

16 Ms. Ward was not in attendance.

### 17 **Assistant City Manager's Report**

18 Ms. Marr reported that since her last report in January, the City had hired two part-time EMTs, one part-  
19 time park worker, one part-time finance person to fill in while a full-time employee was out on leave, and  
20 two part-time lifeguards. She noted staff just finished interviews for a part-time front desk person for  
21 Community Development to replace someone who was retiring. She added she advertised for an internal  
22 position for a full-time paramedic, which would close on May 28.

23 Ms. Marr indicated Mr. Shetterly had helped her complete updates to the Personnel Manual. She noted  
24 she had completed a driving policy for employees and was working on an OSHA-required hearing pro-  
25 gram. Ms. Marr explained employee healthcare enrollment would happen in a couple weeks. She added  
26 she was still working on a salary survey with LGPI for the Police and general employees.

### 27 **Other**

28 Mr. Shetterly reviewed one other change to the special business license ordinance. He explained he add-  
29 ed language that when someone files an application, it would mean they consented to a background check.  
30 He noted that would require bringing the background check ordinance back to the Council.

31 There was no other business and the meeting was adjourned at 5:05 p.m.

## **MEETING AGENDA**

### **ADMINISTRATIVE COMMITTEE**

Monday, May 24, 2010

4:00 p.m.

Ken Woods, Jr., Chair

Kevin Marshall

David Shein

Dave Voves

1. Special business licenses / fees
2. Land use fees
3. RV parking
4. Finance Director's report
5. Assistant City Manager's report
6. Other
7. Adjourn



*Community Development Department*

## **Memo**

**To:** Admin Subcommittee  
**From:** Jason Locke, Community Development Director  
**Date:** May 17, 2010  
**Re:** Special Business licenses and Misc Fees

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Staff has made the recommended revisions to Chapter 7.000 regarding special business licenses. The draft is attached, as well as a Miscellaneous Fee schedule for your review.

## GENERAL REGULATORY LICENSE PROVISIONS

### 7.000 Applicability and Definitions.

(1) The provisions of sections [7.005](#) to [7.080-075](#) apply to this chapter when not in conflict with specific provisions contained in other sections of this chapter.

(2) As used in sections [7.005](#) to 7.080, the term "license" also means "permit."

### 7.005 Purpose.

(1) The regulatory license provisions of sections [7.000](#) to [7.080-075](#) are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.

(2) Obtaining a regulatory license under sections [7.000](#) to [7.860](#) shall not exempt the licensee from other applicable requirements.

### 7.010 Licenses Required.

No person shall engage in an activity or operate a device regulated under sections [7.100](#) to [7.860](#) without first obtaining a license from the city as provided in those sections or without complying with conditions imposed by a license obtained under those sections. If the person engaged in the activity or operating the device within the city is an employee, partner, member, or agent of a partnership, joint venture, limited liability company, corporation or other form of business entity, both the person engaged in the activity or operating the device and the entity must apply for a license and be licensed under sections [7.100](#) to [7.860](#), and the provisions of sections [7.000](#) to [7.860](#) shall apply to both the person and the entity.

### 7.015 License Duration; Proration of License Fees.

Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following December 31, and shall be renewable annually for a term of one year, beginning on January 1. The license fees provided in sections [7.100](#) to [7.850](#) shall be prorated for any partial year for which the license is issued and in effect.

### 7.020 License Renewal and Late Penalty.

(1) The license application for renewal of a license shall be made prior to the license expiration date. The effective date of a renewed license shall be January 1 if the application for renewal is made prior to the current expiration date.

(2) If a licensee fails to apply for and pay the required fee within 30 days after the expiration date of the license, and continues to operate without a valid license, a penalty fee of 25% per cent of the license fee, in addition to the license renewal fee, must be paid prior to issuance of the license.

### 7.025 Review of Renewal.

If the city has received complaints about the licensed activity or device, the application for renewal of the license may be reviewed under section [7.035](#).

### 7.030 Application Requirements; Background Check.

(1) Application for all licenses required by sections [7.100](#) to [7.860](#) shall be made on forms prescribed by the city manager. Application shall be made at least 30 days prior to the date the license is requested to be effective. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity, or device to be licensed and shall provide for other information as required by specific license provisions of this code or as necessary for review under section [7.035](#).

(2) If the application is for a master license under section [7.850\(2\)](#), in addition to all other required information, the application shall specify the date or dates for which the license is sought, whether the license is sought for a single or

recurring activity, and the names, addresses and other identifying and contact information required by the city manager for all persons and entities intended to be covered by the master license.

(3) The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications by the city, and consent to a criminal background check of the applicant under Ordinance No. 1695. If the applicant is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant shall consent to a criminal background check on the entity and all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to conduct the licensed activity or operate the licensed device within the city of Dallas under the license.

### 7.035 Application Review.

Each application shall be referred to the person, department, or agency designated by this code or the city manager to review the application.

### 7.040 Information From Application.

A person, agency, or department designated to review a license application may require the applicant to supply information necessary to determine under section 7.035 the applicant's qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended, revoked, or denied.

### 7.045 Criteria for Grant, Renewal, or Denial.

(1) Approval or denial of the application shall be based on consideration of all available evidence indicating whether the applicant meets the requirements of this code for the license that the applicant seeks.

(2) The license shall not be granted if:

(a) The activity or device to be licensed would not comply with this code, city ordinances, or state or federal law; or

(b) The applicant or, if the applicant is a partnership, joint venture, limited liability company, corporation or other business entity, any of partners, joint venturers, managers, members, officers or directors, as well as any employee or agent designated to conduct the licensed activity or operate the licensed device within the city of Dallas under the license, has a criminal conviction relating to the subject matter of the license; or

(c) The applicant has had a license for the same activity revoked within the previous 12-month period, unless the approval of the license is authorized by the city council upon a determination that the reason for the previous revocation is not likely to recur; or

(d) The licensed activity or device would endanger property or the public health or safety; or

(e) Any false or misleading information is supplied in the application or any information requested is omitted from the application.

### 7.050 Issuance or Denial.

For regulatory license applications required to be made to the manager, the following provisions apply:

(1) After receipt of reports from all persons, departments and agencies designated to review an application, the city manager shall determine whether the applicant qualifies for issuance or renewal of a license pursuant to section 7.045.

(2) If the applicant is qualified, the manager shall issue or renew the license.

(3) If, on the basis of the application review under section 7.035, the manager determines that the application does not qualify for issuance or renewal of the license applied for, the manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the appeal provisions of section 7.065.

### 7.055 Revocation of License.

The city manager, upon determining that a licensed activity, establishment or device is in violation of this code, city ordinances, or state or federal law, shall notify the licensee in writing that the license is to be revoked. The notice shall be given at least 30 days before the revocation unless the period for which the license was granted will expire in less than 30 days, in which case notice shall be given at least seven days before the revocation. If the violation ends within 30 days period provided in the notice of revocation, the manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the appeal provisions of section 7.065.

### 7.060 Suspension of License.

Upon determining that a licensed activity or device presents an immediate danger to persons or property, the city manager may suspend the license for the activity or device at once. The suspension shall take effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the appeal provisions of section 7.065. The manager may continue the suspension until a determination on appeal regarding the suspension is made under section 7.065.

### 7.065 Appeal.

(1) An applicant whose application for a license has been denied or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within 30 days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the council. The appeal shall state:

- (a) The name and address of the appellant;
- (b) The nature of the determination being appealed;
- (c) The reason the determination is incorrect; and
- (d) What the correct determination of the appeal should be.

(2) An appellant who fails to file such a statement within the time permitted waives objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.

(3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence used by courts of law do not apply, and the decision of the council after the hearing is final.

(4) The City Council may, by resolution, establish a fee for an appeal under this section, which must be paid when the appeal is filed.

### 7.070 Posting of License.

(1) Except as provided in subsection (2), the license or permit shall be posted in a conspicuous place upon the business premises, available for inspection by the public, employees, and prospective employees of the business.

(2) If the licensee has no office, business premises, or other established place of business within the city, the license shall be at all times in the possession of an employee or the representative of the business who is present within the city while business is being transacted by an employee or representative within the city.

### 7.075 Transfer or Assignment of License.

Except as may be otherwise provided by sections 7.100 to 7.860, no person shall transfer or assign a license or a permit issued under this chapter.

## MISCELLANEOUS LICENSES

### 7.100 Tent Shows.

Every tent show or exhibition shall pay a license fee of ~~\$15 per day~~ established by the City Council. In addition, any tent show or exhibition desiring selling privileges shall pay a daily license fee of \$5 or a weekly license fee of ~~\$10~~ established by resolution of the City Council. However, no license shall be required of a tent show, exhibition, or entertainment conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.

### 7.105 Carnivals.

Every amusement enterprise consisting of sideshows, vaudeville, games of chance, mechanical rides, and confection stands, popularly known as a "carnival," shall pay a license fee of ~~\$50 per day~~ established by resolution of the City Council. However, no license shall be required of a carnival conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.

### ~~7.110 Theaters.~~

~~Every person operating a vaudeville, motion picture, or drive-in theater shall pay an annual license fee of \$25. However, no license shall be required of a vaudeville, motion picture, or drive-in theater conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.~~

### ~~7.115 Miscellaneous Concessions.~~

~~Every person operating a ball and bucket game, ball throwing game, cane rack, cat rack, country store, doll rack, spot-the-spot game, striking machine, or other similar concession, whether operating alone or in connection with another exhibition, shall pay a daily license fee of \$5 for each game so operated. However, no license shall be required of any such game conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.~~

### ~~7.120 Occult Arts.~~

~~Persons engaging in the business of telling fortunes or the practice of necromancy, conjuration, spiritualism, mesmerism, or any of the occult arts or sciences shall pay a license fee of \$15 per day or \$50 for six months.~~

### 7.125 Restroom Facilities.

All places of public amusement and entertainment shall have access to restroom facilities for male and female participants and spectators near the premises where the amusement or entertainment is conducted.

### ~~7.130 Fee Amendments.~~

~~The license fees required by sections 7.100 to 7.120 may be amended by resolution of the council.~~

### 7.135 Penalties.

Violation of provision of sections [7.100](#) to [7.125](#) is a civil infraction.

## BINGO

### **7.140 Definitions.**

— For purposes of sections ~~7.140 to 7.146~~, the following mean:

— ~~Bingo.~~ A game played with cards bearing lines of numbers in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence, or pattern.

— ~~Charitable, fraternal, or religious organization.~~ Any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purposes, and who is also exempt from payment of federal income taxes because of its charitable, fraternal, or religious purposes. The fact that contributions to an organization profiting from the contest do not qualify for charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal, or religious organization.

— ~~Social game.~~ A game between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

### **7.142 Bingo Permitted.**

— No person, except a charitable, fraternal, or religious organization, shall play or conduct a bingo game as a social game in the city without obtaining a license from the city manager.

### **7.144 License Fee.**

— The license fee for playing or conducting a bingo game shall be \$65 per year. The license shall be issued on a calendar year basis and, if paid after January 1, shall be prorated so that the amount paid shall be in the same proportion to the annual fee as the proportion of the year from the date of its issuance bears to the total calendar year.

### **7.146 Penalty.**

— A person who conducts or permits the conducting of a bingo game as a social game without first having obtained a license as required by section ~~7.142~~ shall be guilty of a Class C misdemeanor.

## **DANCE HALLS**

### **7.150 Definitions.**

— For purposes of sections ~~7.150 to 7.175~~, "dance hall" means any hall, room, pavilion, or place in which a dance is held, and excludes private residences, premises licensed by the Oregon Liquor Control Commission, public school facilities, and regular events held by separate agreements with the city.

### **7.155 License Required.**

— (1) No person shall operate a dance hall without filing an application form and obtaining a license from the city manager.

— (2) The application form shall include information prescribed by the city manager.

### **7.160 License Fees.**

— (1) License fees shall be \$5 per day, \$25 per month, or \$100 per year.

— (2) No license fees are required for dances for which no admission is charged.

### **7.165 License Suspension.**

~~— Licenses may be suspended if the license holder permits:~~

~~— (1) — An intoxicated person to remain on the premises; or~~

~~— (2) — Disorderly conduct by persons on the premises.~~

~~— (3) — Continuing violations of law.~~

### ~~7.170 Summary License Suspension.~~

~~— A dance hall license may be suspended, without hearing or appeal, by a police officer or fire marshal who is present at the dance hall if, in the opinion of the police officer or fire marshal, one of the prohibitions contained in section 7.165 is being violated and the violation poses an immediate threat or hazard to public peace, health, or safety.~~

### ~~7.175 Penalty.~~

~~— Violation of a provision of sections 7.150 to 7.170 is a civil infraction.~~

## AMUSEMENT PLACES AND GAMES

### 7.200 Definitions.

For purposes of sections 7.200 to 7.230, the following mean:

Billiard or pool room. A place open to the general public in which a pool or billiard table is maintained and a charge is made for the use of the table.

Bowling alley. A unit in a building or place where a single game is played at one time by rolling balls by hand at any one or more objects.

Cardroom. Any place open to the public in which social games of cards are played.

Regulated game machine. A game machine that requires the insertion of coin, currency, slug, token, or similar object to activate the game, such as a pinball machine, video poker machine licensed by the State of Oregon, pool table, or shuffleboard, and which is located in a commercial establishment.

Shooting gallery. An enclosure in which guns are discharged at an object to display skill or marksmanship.

Skating rink. A place or premises maintained and open to the public for the purpose of roller skating or ice skating and a charge is made for such privilege.

Social game. A game between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the game.

[Section 7.200 amended by Ordinance No. 1620, passed November 19, 2001.]

### 7.205 License Required.

(1) No person shall maintain or operate a cardroom, billiard room, poolroom, bowling alley, skating rink, or shooting gallery in the city without first obtaining a license from the city manager.

**Comment [1]:** I added "social" here to preserve cardrooms in the city. State law limits them to social games.

(2) No person shall possess six or more regulated game machines for commercial use in the city without first obtaining a license from the city manager.

(3) No person shall furnish a regulated game machine to a commercial establishment and retain any ownership interest or right to receive proceeds therefrom without first obtaining a license from the city manager.

[Section 7.205 amended by Ordinance No. 1620, passed November 19, 2001.]

**Comment [.2]:** This requires the supplier of an Oregon Lottery game to have a license from the city. Do we enforce this now? Do we want to? (Can we??)

### 7.210 Criteria for Grant or Denial of Application.

In addition to conforming to the requirements listed in section 7.045, the license required under section 7.205 shall not be granted if:

(1) Any person financially interested in the business has been previously convicted of a felony within the last 10 years;

(2) Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;

(3) Any person financially interested in the business has been convicted of any crimes involving gambling within the last five years or any person who has any financial interest in the business has forfeited bail for any crime involving gambling within the last five years;

(4) Any person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in state law when such gambling device has been ordered destroyed within the last five years;

(5) Any person financially interested in the business has had a license in his/her name which has been revoked or suspended three or more times by the Oregon Liquor Control Commission, the last of which was in the last five years;

### 7.215 License Fees.

~~(1) The license fee under DCC 7.205(1) is \$25 per year.~~

~~(2) The license fee under DCC 7.205(2) is \$25 per year.~~

~~(3) The license fee under DCC 7.205(3) is \$25 per year.~~

~~(4) Future license fees may be set by council resolution. The license fees required under section 7.205 shall be established by resolution of the City Council.~~

[Section 7.215 amended by Ordinance No. 1620, passed November 19, 2001.]

### 7.220 Gambling Prohibited.

No person operating or assisting in the operation of any business described in section 7.200 where a regulated game machines are available to the public shall permit a person to gamble or to play any game of chance upon the premises for a monetary benefit, except in regulated game machines licensed by the State of Oregon for gambling.

[Section 7.220 amended by Ordinance No. 1620, passed November 19, 2001.]

**Comment [.3]:** This means card rooms with social games can't also have lottery machines. Is that a problem?

### 7.225 Condition of Premises.

All places of business required to be licensed by section 7.205 shall at all times be kept in a clean and sanitary condition and shall be open at all reasonable times to inspection by the city for violations of this or any other city code provision.

[Section 7.225 amended by Ordinance No. 1620, passed November 19, 2001.]

## 7.230 Penalties.

Violation of a provision of sections [7.200](#) to [7.225](#) is a civil infraction.

## ~~SECONDHAND STORES AND PAWN SHOPS~~

### ~~7.350 License Required.~~

~~—No person shall begin or continue as a substantial part of their business the collection, purchase, exchange, and sale of used articles, either as a "secondhand store" or "pawn shop" without having first obtained a license from the city manager.~~

### ~~7.355 Exceptions.~~

~~—Sections [7.350](#) to [7.385](#) shall not apply to persons dealing in new or used automobiles, new and used furniture, new and used farm implements and machinery, and similar businesses, but shall apply to only those places that devote a substantial portion of their business to buying, selling, exchanging, and lending used articles.~~

### ~~7.360 Records Required.~~

~~—The chief of police shall prepare forms for record keeping by licensed merchants. The forms shall include information necessary to the identification of goods purchased or acquired by the merchant. Each licensed merchant shall maintain a record of all purchases at the time purchased upon the forms provided. The records shall be available at all reasonable times for inspection by police officers.~~

### ~~7.365 Segregation of Inventory.~~

~~—All used articles purchased or acquired shall be segregated in a manner that permits them to be identified from the record and they shall be segregated from the remainder of the inventory for a period of seven days before resale. A police officer may require segregation for an additional seven days.~~

### ~~7.370 Limitation on Sales.~~

~~—No purchase or acquisition shall be made from any person under the age of 18 years of age unless accompanied by a parent or guardian, or from any person who is incapable of dealing intelligently or who is under the influence of narcotic drugs or intoxicating liquor.~~

### ~~7.375 License Application.~~

- ~~(1) An application to operate a secondhand store or pawn shop shall be filed with the city manager.~~
- ~~(2) The application shall be in a form prescribed by the city manager.~~
- ~~(3) The license fee shall be \$50 annually.~~
- ~~(4) Future fees may be increased by resolution of the council.~~

### ~~7.380 Criteria for Grant or Denial of Application.~~

~~—In addition to conforming to the requirements listed in section [7.045](#), the license shall not be granted if:~~

- ~~(1) Any person financially interested in the business has been previously convicted of a felony within the last 10 years;~~
- ~~(2) Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;~~

### ~~7.385 Penalty.~~

~~—Violation of a provision of sections 7.350 to 7.380 is a Class C misdemeanor.~~

## VENDORS ON PUBLIC RIGHT-OF-WAY

### 7.400 Permit Required.

No person shall conduct business on any ~~city-public~~public right-of-way without first obtaining a permit from the city manager.

[Section 7.400 amended by Ordinance No. 1518, passed May 6, 1996.]

### 7.405 Permit Fee.

Each application for a permit to conduct business on a public right-of-way shall be accompanied by a fee established by council resolution.

[Section 7.405 amended by Ordinance No. 1518, passed May 6, 1996.]

### 7.410 Application and Fee.

(1) Application for a permit to conduct business on a public right-of-way shall be made on a form prescribed by the city manager and pay the : fee established by resolution of the City Council.

[Section 7.410(1) amended by Ordinance No. 1518, passed May 6, 1996.]

(2) A separate application shall be required for each mobile container or device to be used for transportation or display.

### 7.411 Insurance.

The city manager may require the vendor to obtain and maintain a policy of liability insurance from an insurance company licensed to issue insurance in the State of Oregon, with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and to provide the city with a certificate of such insurance. Said insurance coverage, if required, shall be maintained for so long as the permit remains in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city.

[Section 7.411 added by Ordinance No. 1603, passed January 2, 2001.]

### 7.415 Location Review.

(1) Upon receipt of an application for a permit, the manager shall review each location applied for to determine whether the location is within a commercial area and the use of the location for public right-of-way vending is compatible with the public interest in use of street and sidewalk areas as public rights-of-way.

(2) In making the determination, the manager may consider the width of the public right-of-way, the proximity and location of existing street furniture, including but not limited to, sign posts, lamp posts, parking meters, bus shelters, benches, phone booths, and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands, to determine whether the proposed use would result in pedestrian or street congestion.

(3) If the manager determines the proposed location is unsuitable, the city manager shall so inform the applicant who may appeal the decision to the council in the same manner as an appeal filed under section 7.065, upon the filing of an appeal fee established by resolution of the City Council.

[Section 7.415 amended by Ordinance No. 1518, passed May 6, 1996.]

#### 7.420 Form and Conditions of Permit.

Permits issued shall be in a form prescribed by the manager. Permits shall contain the following conditions:

- (1) The permit is valid only when used at the location(s) designated on the permit.
- (2) The permit as it applies to a given location may be suspended by the council for a period up to ten days when council action providing for a "community event" requires the suspension.

#### 7.425 Restrictions.

(1) A person conducting business on a public right-of-way must display prominently the permit issued by the city manager.

[Section 7.425(1) amended by Ordinance No. 1518, passed May 6, 1996.]

- (2) No person shall conduct business at a location other than that designated on the permit.
- (3) No permittee shall make any loud or unreasonable noise of any kind for the purpose of advertising or attracting attention to his the permittee's wares.
- (4) No permittee shall conduct business in violation of the council action providing for a community event.

#### 7.430 Penalty.

Violation of a provision of sections 7.400 to 7.425 is a civil infraction.

## GARAGE SALES

#### 7.500 Definition.

For purposes of sections 7.500 to 7.545, "garage sale" means the public sale or offering for sale of new or used goods within the city by any individual or group of individuals from private or public property, including but not limited to garages, porches, carports and yards, when:

- (1) The individual or group of individuals is not regularly engaged in the business of selling such goods; or
- (2) When the property on which the sale is conducted is not regularly used for business purposes or is not in a zone permitting commercial use.

#### 7.505 Exemption.

The following are exempt from the provisions of sections 7.500 to 7.545:

- (1) Offering for sale one item by public display with a sign indicating the item is for sale, and the sale of more than one individual item not offered for sale by public display or by signs concerning a sale or place of sale; and
- (2) Sales commonly referred to as "rummage sales," conducted by members of fraternal, civic, patriotic, religious, service, charitable, educational, or eleemosynary organizations with a chapter, lodge, post, congregation, or other unit existing within the city.

#### 7.510 Permit Required.

No individual or group of individuals shall hold a garage sale without first obtaining a permit.

### **7.515 Application.**

In addition to the provisions of sections [7.000](#) to 7.080, the application shall include:

- (1) A description of the place from which the sale is to be held.
- (2) The dates and hours of the day during which the sale is to be conducted.
- (3) Whether the person will be selling any upholstered furniture or bedding.
- (4) Whether the owner of such goods is to pay any commission for the sale.
- (5) Whether the owner or lessee in possession of the premises from which the sale is to be conducted is to receive any compensation for the use of the premises.
- (6) Whether the individual or group of individuals conducting the sale have conducted a sale within the past 12 months.
- (7) Whether other garage sales have been held upon the premises upon which the sale is to be held during the calendar year in which the proposed sale is to be held.

### **7.520 Permit Issuance.**

The city manager shall issue a permit for the sale if he finds that:

- (1) The application is properly completed; and
- (2) No commission is paid by the individual or individuals owing the goods to be sold and that no compensation is received by the owner or lessee of the premises from which the sale is to be conducted; and
- (3) The individual or group of individuals conducting the sale have not conducted a like sale previously during the past 12 months; and
- (4) No other such sale has been held upon the premises upon which the garage sale is to be held during that portion of the past 12 months in which the individual or individuals then occupying the premises have occupied the premises.
- (5) Notwithstanding the provisions of this section, the city manager may issue a permit for a second sale within a 12-month period to the same person or to be held on the same premises.

### **7.525 Duration of Permit.**

The permit issued by the city manager shall be valid for a period not to exceed three consecutive days and shall permit the sale only between the hours of 8 a.m. and 9 p.m.

### **7.530 Permit Fee.**

No fee shall be required if the application is made prior to the commencement of the sale. If the application is made after the commencement of the sale, a fee of \$15 shall be charged.

[Section 7.530 amended by Ordinance No. 1561, passed August 3, 1998.]

### **7.535 Display of Permit.**

No garage sale shall be held without a permit being prominently displayed so that it can be seen readily from the street.

### 7.540 Signs.

- (1) Only one sign shall be posted upon the premises on which the garage sale is to be held.
- (2) One off premises sign for the purpose of directing people to the garage sale shall also be permitted but only a sign issued by the city shall be allowed. The city shall have available a reasonable supply of garage sale signs for use by individuals at no cost. The city may secure a deposit to cover the cost of replacing the sign in the event it is damaged or lost.
- (3) Signs shall not be placed in the public right-of-way and shall be placed upon private property only with the consent of the property owner. Signs shall not be placed earlier than one hour before the garage sale starts and shall be removed by no later than one hour after the conclusion of the garage sale.

[Section 7.540 added by Ordinance No. 1462, passed June 1, 1992.]

### 7.545 Penalty.

Violation of a provision of sections [7.500](#) to [7.540](#) is a civil infraction.

## SOLICITATION

### 7.600 Policy and Purpose.

The council finds it necessary and desirable to regulate solicitation in order to provide an effective opportunity for the occupants of residential property to protect themselves from the unwanted disruption of the peaceful and quiet enjoyment of their property and right of privacy that is caused by solicitors, to protect the rights to free speech guaranteed by the Oregon and Federal Constitutions for lawful solicitors, and to provide a means by which those solicitors who choose to intrude upon and disrupt an occupant's quiet enjoyment of property can be held accountable for such violations. The council has also been advised that, based upon actual experiences in Dallas and in the opinion of crime prevention specialists nationwide, there is a direct connection between residential burglaries and unscrupulous solicitors. The creation of a registration requirement will enable city officials and citizens of the city to become informed concerning the individuals and organizations who choose to solicit in the city. Sections [7.600](#) to [7.640](#) also provide a mechanism for discouraging those solicitors who avoid registration and provide a mechanism to identify and discourage those who would use solicitation as a front for criminal activity.

### 7.605 Definition.

For purposes of sections [7.600](#) to [7.640](#), the terms "solicit" and "solicitation" mean the entry onto real property ~~used for residential purposes~~ by a person for the purpose of taking orders for goods, wares or merchandise or any article or thing of value for present or future delivery or for services to then be performed or to be performed in the future or for the making, manufacture or repair of any article or thing whatsoever for present or future delivery ~~of verbally communicating with an occupant of the property~~, without the actual consent of the occupant to do so; provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise or services to merchants of this city, nor to newspaper vendors or minors selling goods, wares, merchandise or services on behalf of any public or private school or any nonprofit charitable organization that is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code of the United States, as it may be amended from time to time.

**Comment [.4]:** This revised definition eliminates the limitation of the solicitation ordinance to residential property (businesses get scammed, too); restricts the definition to commercial activity, which makes it clear it does not apply to protected religious and political activity; and exempts kids who are soliciting for a school or nonprofit charitable organization (such as Kids, Inc. Girl Scouts, and the like).

### 7.610 Prohibited Acts and Penalties.

- (1) No person shall:
  - (a) Solicit before 9 a.m. or after 9 p.m. when the local time is daylight savings time or after 8 p.m. when the local time is standard time.
  - (b) Solicit without first having obtained a registration certificate if required to do so by sections [7.600](#) to [7.640](#).
  - (c) Violate the terms of a registration certificate issued under sections [7.600](#) to [7.640](#).
  - (d) Solicit after a registration certificate has been revoked.

(e) Allow, suffer, or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this section.

(f) Provide false or fraudulent information on a registration statement.

(g) Allow, suffer, or permit any person to solicit on their behalf after a registration certificate has been revoked.

(2) Violation of subsections (1)(a), (1)(c), (1)(e), and (1)(f) of this section is punishable by a fine of not more than \$500.

(3) Violation of subsection (1)(b) of this section is punishable by a fine of not more than \$500 unless the violation is intentional, in which case it is punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

(4) Violation of subsections (1)(d) and (1)(g) of this section is punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

### **7.615 Consent to Enter Onto Real Property, Exemptions.**

(1) It shall be an affirmative defense to an alleged violation of section 7.610 (1)(a) that the person charged with the violation had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter the real property may be implied from the circumstances of each instance, the relationship of the parties, and actual or implied contractual relationships.

(2) Nothing in this section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.

(3) Officers, employees, or agents of a governmental entity, while performing activities within the scope of their office, employment, or agency are exempt from the requirements of sections 7.600 to 7.640.

(4) No person may be charged with a violation of sections 7.600 to 7.640 in connection with an act committed between 4 p.m. and 10 p.m. on October 31.

### **7.620 Registration Statement.**

(1) All persons intending to solicit at five or more dwelling units in the city during any eight-hour period shall file with the city manager a registration statement, on forms provided by the city manager, containing the following information:

(a) The name of the person registering and desiring to solicit.

(b) Whether the person registering is a natural person, partnership, corporation, [limited liability company](#) or association, and

(i) If a natural person, the business or residence address and telephone number of the person.

(ii) If a partnership, the names of all partners and the principal business address and telephone number of each partner.

(iii) If a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the Willamette Valley area office of such corporation, and the registered agent of the corporation and the names of all officers and directors or trustees of the corporation, and, if a foreign corporation, the place of incorporation.

(iv) If an association or [limited liability company](#), the registration statement shall show the association or [limited liability company](#)'s principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association or [limited liability company](#), unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association or [managers of the limited liability company](#). If the association or [limited liability](#)

comapny is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.

- (c) A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation of the intended purpose of the solicitation.
- (d) The names, mailing address, and telephone number of all individuals who will be in direct charge or control of the solicitation and the names and addresses of all persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the city or the public concerning the solicitation activities.
- (e) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.
- (f) A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.
- (g) The names of any other cities in which the person registering has solicited within the past five years, but if the person registering has solicited in more than five other cities, the person registering may list the five cities located closest to Dallas.
- (h) A statement that if a certificate of registration is granted, the certificate will not be used as or represented to be an endorsement by the city or any of its officers or employees.
- (i) The names of any officer, director, trustee, partner, corporation, or any current agent or employee or any other person actually engaging in the solicitation who has signed a consent decree or order in the last five years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five years, and the nature of the offense or consent decree or order, the state where the conviction or consent decree or order occurred, and the year of the conviction or consent decree or order.
- (j) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.
- (k) The registration statement must be signed by the applicant, if the person registering is an individual; if the person registering is a partnership, by a partner; if the person registering is a corporation or an association, by an officer. The individual signing the registration statement shall sign the statement and swear or affirm before an Oregon notary that he has carefully read the registration statement and that all the information contained therein is true and correct.

(2) Submission of a registration statement under this section shall constitute the registrant's consent to conduct an investigation of the registrant's qualifications by the city, and consent to a criminal background check of the registrant under Ordinance No. 1695. If the registrant is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant shall consent to a criminal background check on the entity and all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to engage in solicitation within the city of Dallas under the registration.

(32) The registration statement and information submitted with the registration statement are public records available for public inspection during normal city business hours.

#### **7.625 Issuance of Certificate of Registration.**

(1) After a review of the registration statement to determine its compliance with section 7.620, and within ten working days of the receipt of the registration statement, the city manager shall either issue a certificate of registration in the form provided by section 7.635, or notify the person registering that the registration statement does not comply with the requirements of section 7.620. The notice shall specifically point out what required information or explanation has not been furnished before a certificate of registration can be issued.

(2) If the person registering is engaged in an activity for which a business license is required by the city, proof of a valid business license shall be furnished prior to the issuance of the certificate.

#### **7.630 Revocation of Registration.**

(1) A certificate of registration shall be revoked by the city manager if a registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of two violations of section 7.610 occurring within any 30 calendar day period in connection with or on behalf of the solicitation of the registered person. A certified copy of the municipal court record of plea or conviction is conclusive proof that a violation has occurred.

(2) The period of revocation shall be for six months, during which time the person may not receive a certificate of registration.

(3) Within five working days of receipt of notification that a registered person has been convicted or plead guilty or no contest to the second violation, the city manager shall notify the person designated in the registration statement to receive notice of the action to revoke, in writing, five days prior to the effective date of the revocation.

(4) The person may appeal the manager's decision to the council by filing a notice of appeal with the city manager within 10 days of the effective date of the revocation. During the pendency of the appeal, the order to revoke is stayed.

### 7.635 Form of Certificate of Registration, Term.

(1) The city manager shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the city of Dallas or any of its officers or employees." Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the registrant.

(2) Every certificate of registration issued by the city manager shall contain a termination date upon which the certificate shall expire. The termination date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.

(3) The certificate of registration shall contain a list of the acts prohibited by section 7.610.

### 7.640 Evidentiary Matters.

For the purposes of sections 7.610(1)(e) and 7.610(1)(g), if a person solicits on behalf of a person registered pursuant to sections 7.600 to 7.640, it is presumed that the person registered allowed, suffered, or permitted the solicitation.

### 7.645 Exception.

The provisions of sections 7.000 to 7.080 are not applicable to sections 7.600 to 7.640.

## ALTERNATE APPROACH TO SOLICITATION (7.600 – 7.608):

### 7.600 Solicitation Hours.

The occupant or person in control of real property shall be considered to have given constructive consent to enter upon those premises for the purpose of solicitation between the hours of 9:00 a.m. and 9:00 p.m., unless a sign is posted pursuant to section 7.606.

### 7.602 Solicitation Defined.

For purposes of sections 7.600 to 7.610, "solicitation" means the entry onto real property by a person for the purpose of taking orders for goods, wares or merchandise or any article or thing of value for present or future delivery or for services to then be performed or to be performed in the future or for the making, manufacture or repair of any article or thing whatsoever for present or future delivery without the actual consent of the occupant to do so; provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise or services to merchants of this city.

### 7.604 Unlawful Solicitation.

**Comment [.5]:** This alternate approach to solicitation, based on Ashland and Tualatin, does not involve regulation or registration by the city, but leaves it up to property owners to post no-soliciting signs, violation of which constitutes a violation of these code provisions. Since this version does not regulate solicitation, it also does not exempt nonprofit or other similar groups selling things from door-to-door. Of course, that means those groups will have to obey "No Soliciting" and "No Trespassing" signs, but they should, anyway.

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It shall be unlawful for any person to enter upon a premises posted with a sign as provided in Section 7.606 for the purpose of solicitation between the hours of 9:00 a.m. and 9:00 p.m., and on any premises, whether posted or not, before 9:00 a.m. and after 9:00 p.m.

#### **7.606 Signs.**

Signs posted under sections 7.600 and 7.604 must contain the words "no solicitation" or "no trespassing" or substantially similar language. Signs shall not exceed 12 inches by 12 inches in dimension. Signs posted pursuant to this section shall be posted on or near the boundaries of the property or at the primary entrance. Signs authorized under this section are exempt from the provisions of the Dallas Sign Ordinance, sections 9.900 to 9.995.

#### **7.608 Unlawful Solicitation Exception.**

The prohibition of section 7.604 does not apply to a person who has received prior express permission from the person in control of the premises, or to government officials entering the property in the performance of their lawful duties, including, but not limited to: postal workers, peace officers, emergency services personnel, or city employees.

#### **7.610 Penalty.**

Violation of sections 7.600 to 7.608 is a civil infraction. Notwithstanding this provision, conduct that constitutes the offense of criminal trespass may also be charged and prosecuted as a violation of state law.

**Comment [.6]:** This makes sure that we aren't limited to prosecuting true trespassers just for an infraction under this section, but can charge them with criminal trespass.

## **TAXICABS**

#### **7.700 Purpose.**

It is the purpose of sections 7.700 to 7.800 to require that those persons, firms, or corporations operating taxicabs in the city do so in a safe, fair, and efficient manner. In the accomplishment of this purpose, the council considers it necessary to impose some regulations on the operation of taxicabs in the city to insure that the public safety and convenience is promoted.

#### **7.705 Definitions.**

As used in sections 7.700 to 7.800, the following mean:

Driver. A person who operates a taxicab as an agent, employee, or otherwise, of the owner; as owner; or, under the direction of the owner.

Owner. The person licensed to conduct a taxicab business pursuant to sections 7.700 to 7.800.

Taxicab. A motor vehicle that is designed or constructed to accommodate and transport not less than three nor more than five passengers, exclusive of the driver, and which is used to transport persons for hire.

#### **7.710 License.**

No person shall engage in the taxicab business within the city without having first obtained a license from the city manager.

#### **7.715 Application, Information, Requirement.**

An application for a license to conduct a taxicab business within the city shall be filed with the city manager and shall be accompanied by a nonrefundable fee of \$100. The application shall contain or be accompanied by the following information and documentation:

- (1) The name, business address, residence address, and telephone number of the applicant;

(2) Previous experience, if any, of the applicant in conducting a taxicab business;

(3) The make, type, year of manufacture, and seating capacity of each vehicle the applicant intends to use in the taxicab business, together with proof of the safe operating condition of each such vehicle from a source acceptable to the chief of police;

(4) A statement as to whether the applicant, its principals (if a partnership or firm) or its officers (if a corporation) have been convicted of a felony, misdemeanor, or offense constituting a violation of municipal ordinance, code provision, or state law (other than minor traffic and parking offenses); the charge of which convicted; and the punishment or penalty assessed;

(5) A proposed schedule of charges for taxicab service; and

(6) Such other information the council may consider necessary for the proper protection of the public.

#### **7.720 Action on Application.**

The city manager shall refer each application to the council for its approval or rejection. However, before submitting the application to the council, the manager shall direct the chief of police to investigate the applicant's background and the matters contained in the application form. The chief of police shall complete the investigation and make a report of his findings to the city manager within 60 days of the date he is requested to investigate.

#### **7.725 Licensing Fees.**

(1) If the council approves the application for a taxicab business license, the city manager shall issue a license to the applicant for a term of one year from its date of issue, after first collecting from the applicant a license fee as follows:

(a) For the operation of one taxicab, \$50; and

(b) For the operation of each additional taxicab, \$25.

(c) Future fees may be determined by council resolution.

(2) The license shall be subject to renewal annually upon payment of the license fee. The license fee shall not be prorated for any fraction of a year, except that if a second taxicab is placed in operation by the licensee after the current license is issued and within 60 days of the expiration date, the \$25 license fee for the second taxicab shall entitle the licensee to operate the second taxicab for the balance of the current year and the next succeeding year.

#### **7.730 Transfer, Suspension, or Revocation of License.**

(1) No taxicab license may be sold, assigned, or otherwise transferred without the consent of the council.

(2) A taxicab license may be suspended or revoked by the council after a hearing at which the certificate holder is given an opportunity to appear if any one or more of the following conditions exist:

(a) A false statement is made on an application.

(b) The owner ceases to operate a taxicab for a period of 15 consecutive days without obtaining permission for the cessation of operation from the council.

(c) The owner fails to operate the taxicab business in accordance with the provisions of sections [7.700](#) to [7.800](#).

(d) The taxicabs are operated at a rate of fare other than that filed with the city manager.

(e) The owner fails to pay the fees or payments required to be paid by him by the provisions of sections [7.700](#) to [7.800](#).

(f) The licensee is convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law, other than minor traffic and parking offenses, relating to the operation of a vehicle.

(3) The license may be summarily revoked by the city manager when, in the city manager's opinion, the continued operation poses a risk of immediate threat or hazard to the public safety. The revocation may be appealed as provided in section [7.735](#).

#### **7.735 Hearing on Rejection.**

(1) If the application for a taxicab business license is rejected or a license is suspended or revoked, notice shall be given promptly to the applicant and the applicant shall be furnished with a statement of the reasons for the rejection, revocation, or suspension.

(2) The applicant may request a hearing before the council for the purpose of rebutting the council's reason for the rejection if a request for a hearing is made by the applicant within 15 days after the date of the notice of rejection.

(3) If a hearing is held, the council may affirm its rejection of the application or may grant the application.

#### **7.740 Display of License.**

The current license or a photocopy of it shall be displayed in the interior of each taxicab in a place which is readily visible to each passenger.

#### **7.745 Insurance.**

(1) No taxicab license shall be issued until the applicant has filed with the city manager evidence that the applicant has obtained public liability insurance covering the operation of the applicant's taxicab or taxicabs with limits of not less than \$200,000 for injuries sustained by one person, \$500,000 for injuries sustained by more than one person in a single accident, and \$50,000 for property damage, and that the city has been named as an additional insured on the policy.

(2) The applicant shall also file with the city manager evidence that the insurance carrier shall give the city not less than 30 days' notice of any change in the insurance coverage or of any cancellation of coverage.

#### **7.750 Approval of Drivers.**

(1) No person shall drive a taxicab in the city until the person has received a permit from the chief of police.

(2) The application for a permit shall contain the following information:

(a) The name, address, age, social security number, and Oregon motor vehicle operator's license number of the applicant.

(b) The number of motor vehicle accidents in which the applicant has been involved as a driver that resulted in injury to one or more persons, or property damage in excess of \$500.

(c) A statement as to whether the applicant has ever been convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law; the charge of which he was convicted; and the penalty or punishment assessed.

(d) The fingerprints of the applicant.

(3) The application shall be accompanied by an application fee of \$10.

(4) No permit shall be issued to a person below the age of 18 years.

(5) The chief of police shall review the application and issue or deny a driving permit within ten days after the filing of the application. If a permit is denied, the applicant may appeal to the council by giving notice to the chief of police within ten days after the date of denial.

(6) The driver's permit or a photocopy of it, with a picture of the driver, shall be displayed prominently in the interior of the taxicab.

#### **7.755 Conduct of Drivers.**

No driver shall operate any taxicab in a careless or reckless manner, smoke tobacco without the consent of the passenger, consume alcoholic beverages or illegal drugs while on duty, or engage in conduct endangering the health or safety of persons or property.

#### **7.760 Taxicab Equipment.**

In addition to the equipment required to be carried by all motor vehicles under state law, each taxicab operated under a license pursuant to sections [7.700](#) to [7.800](#) shall have:

(1) A taximeter that operates accurately at all times while the taxicab is engaged in the transportation of a fare paying passenger and while waiting for a passenger. The face of the meter shall be at all times visible to the passenger and readable by him or her. However, if the fares charged by the licensee are based on concentric circles imposed upon a map of the city or some other similar method, no taximeter shall be required.

(2) A top light identifying it as a taxicab.

(3) A fire extinguisher approved by the chief of the fire department.

(4) The company name and telephone number where service can be requested displayed on the exterior of the vehicle.

(5) A "state of art" taxi radio on a clear coordinated taxicab frequency for customer comfort and rapid dispatching of calls for service.

#### **7.765 Taxicab Maintenance.**

The licensee shall keep each taxicab in proper repair; in a clean and sanitary condition, equipped as required in section [7.760](#), and in a safe operating condition.

#### **7.770 Rates.**

(1) The rates charged passengers shall be based on the factors of mileage from the point of origin to the point of destination by the most direct route, the time involved, and the number of passengers.

(2) The rates charged passengers shall be approved by the council. Upon the council's approval, the rates shall be filed with the manager, and no person shall charge a sum other than allowed by the rate schedule.

(3) The approved rate schedule shall be posted in each taxicab in a place where it may be readily viewed by the passengers.

#### **7.775 Receipt for Fare.**

Upon demand by a passenger, the taxicab driver shall issue the passenger a receipt for the fare, in legible printing or writing, containing the name of the passenger, the name of the driver, the date, and the amount of the fare paid.

#### **7.780 Hours of Service.**

Licensees shall maintain and have available taxicab service for citizens in the city during each hour of every day of the year unless an exception or exceptions have been approved by the council.

#### **7.785 Liquor Traffic.**

Neither the licensee, the driver, nor any agent or employee of either shall allow a taxicab to be used for the purpose of supplying intoxicating liquor to a person.

#### **7.790 Variances.**

(1) If the following conditions are met, the council may authorize variances from the requirements of sections [7.700](#) to [7.800](#):

(a) Because of special and unusual circumstances, strict application would cause an undue or necessary hardship; and

(b) The variance will not be materially detrimental to the purpose of sections [7.700](#) to [7.800](#); and

(c) The variance requested is the minimum variance necessary to alleviate the hardship.

(2) The council may attach conditions to the approval of the variance which it finds necessary to protect the public safety and convenience of the citizens.

(3) A request for a variance may be initiated by filing an application with the city manager on forms prescribed for that purpose. Before a variance is granted it shall be considered at a public hearing before the council. The public hearing shall be held within 40 days after the application is filed.

(4) Notice of the time and place of the public hearing and a summary of the proposed variance shall be given by the city manager by one publication in a newspaper of general circulation in the city not less than four days nor more than ten days prior to the date of the hearing.

#### **7.795 Liability.**

The city shall not be liable for any injuries occurring in, or by reason of the operation of, a taxicab.

#### **7.800 Penalty.**

Violation of sections [7.700](#) to [7.800](#) is a civil infraction.

### **ITINERANT MERCHANTS**

#### **7.850 Definition.**

For purposes of sections [7.850](#) to [7.860](#):

~~an~~ (1) "itinerant merchant" is a person who sells or offers for sale to the public at large, goods, wares, or merchandise, other than from door-to-door or from place-to-place, from a motor vehicle, trailer, cart, wagon, or stand, on a nonpermanent or noncontinuous basis.

(2) "Master license" is a license issued to the organizer or sponsor of a coordinated event or activity, approved by the city council, involving more than one itinerant merchant (a) for a limited duration, not exceeding five consecutive days; or (b) on a scheduled recurring basis, not more frequently than twice each calendar week, for a period not to exceed six consecutive months. A master license shall be subject to all of the provisions of sections 7.000 to 7.075.

#### **7.851 Application and Fee.**

~~(1)~~ Application for an itinerant merchant permit shall be made on a form prescribed by the city manager and be accompanied by the fee established by resolution of the City Council

#### **7.855 License Required; Exception.**

(1) Except as provided in section (2), No person shall engage in business as an itinerant merchant without first ~~registering with the police department on registration forms furnished by the city~~ obtaining a permit from the city manager.

(2) A person named under a master license issued under section 7.030 is not required to have a license under subsection (1) of this section during the activity or period covered by the master license, provided, that the person shall comply with all of the requirements of sections 7.857 and 7.858, and all other applicable laws, rules, regulations and ordinances.

~~(2) The registration form shall be adopted by resolution of the council and may be obtained in the city manager's office.~~

### **7.856 Time Limit and Location.**

(1) No itinerant merchant shall do business or leave any stand or structure associated with their business at the same location for more than ~~6 consecutive months and after 6 consecutive months shall not reestablish their business or place any stand or structure associated with their business at that location for an additional 2 months.~~ 3 months in any calendar year, unless the itinerant merchant is named under a master license issued for a recurring activity or event, as authorized under section 7.850(2), in which case the itinerant merchant may do business at the licensed location for the duration of the license period, provided, the merchant may not leave any stand or structure in place when not actively engaged in business.

(2) If an itinerant merchant ceases to operate a business for 14 consecutive days, the ~~registration license~~ for that itinerant merchant shall automatically terminate and all stands, signs, storage facilities and structures of any kind associated with the business shall be immediately removed.

(3) If the licensee under a master license for a scheduled recurring event or activity fails to operate the event or activity on more than two consecutive scheduled occasions, the master license shall automatically terminate and all stands, signs, storage facilities and structures of any kind associated with the activity or license shall be immediately removed. Upon termination of a master license, all persons named under the master license shall cease doing business under the license.

(4) Itinerant merchant activities shall only be allowed in a commercial zone with the written permission of the lot owner. The proposed location must have adequate off-street parking, circulation, and other improvements deemed necessary by the city manager.

[Section 7.856 added by Ordinance No. 1437, passed June 4, 1990.]

### **7.857 Outside Storage Prohibited.**

No outside storage or display of supplies, equipment, stock, wares or other materials associated with the business shall occur except while the itinerant merchant is present and open for business.

[Section 7.857 added by Ordinance No. 1437, passed June 4, 1990.]

### **7.858 Premises to be Maintained.**

The business premises and any adjacent areas used or under the control of the itinerant merchant shall at all times be kept neat, clean and free of debris. All stands, storage facilities or structures used shall be in good condition, be well maintained and be aesthetically appropriate to the surrounding area.

[Section 7.858 added by Ordinance No. 1437, passed June 4, 1990.]

### **7.859 Insurance.**

The city manager may require the itinerant merchant to obtain and maintain a policy of liability insurance from an insurance company licensed to issue insurance in the State of Oregon, with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and to provide the city with a certificate of such insurance. Said insurance coverage, if required, shall be maintained for so long as the permit remains

in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city.

#### **7.860 Penalty.**

Violation of a provision of Sections [7.855](#), [7.856](#), [7.857](#), or [7.858](#) is a civil infraction.

[Section 7.860 amended by Ordinance No. 1437, passed June 4, 1990.]

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**PROPOSED**  
**City of Dallas**  
**Miscellaneous Fees**  
**Adopted on \*\*\***  
**By Resolution No.\*\*\*\***

<b>RV Parking Permit</b>	<b>\$50.00</b>
<b>Tent Shows and Carnivals</b>	<b>\$50.00/day</b>
<b>Amusement places and games</b>	<b>\$25.00 per year (for each category in DCC 7.205)</b>
<b>Solicitation Registration</b>	<b>No fee</b>
<b>Vendors on the Public ROW</b>	<b>\$150.00/6 months or \$250.00/year</b>
<b>Itinerant Merchant Permit</b>	<b>\$100.00</b>
<b>Tree removal permit</b>	<b>\$100.00</b>



*Community Development Department*

## **Memo**

**To:** Admin Subcommittee  
**From:** Jason Locke, Community Development Director   
**Date:** May 17, 2010  
**Re:** Land Use Fees Update

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As directed by the committee, I have spoken with several developers as well as current applicants. The responses ranged from “reasonable” and “we can live with this” to a current applicant who told me they were shocked at how low the CUP application fee (\$500) was compared to other places they do business.

We are recommending that the committee forward the new fee schedule to the full Council for adoption.



## Community Development Department

### Memo

**To:** Admin Subcommittee  
**From:** Jason Locke, Community Development Director *JL*  
**Date:** March 16, 2010  
**Re:** Land Use Fees

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With the adoption of the new development code, staff discovered that the existing land use fee schedule did not correlate with types of land actions contained in the new development code (such as site plan review, floodplain permits, and final plats). In addition, we determined that the fees being charged did not cover the costs of processing the applications. In many cases, the cost recovery is far less than 50%. That means that the city general fund is subsidizing the cost of new development applications.

As an example, the cost of processing a Conditional Use permit is approximately \$1200. We currently charge \$500. That leaves \$700 being subsidized. The proposed fee is \$1000, much closer to full cost recovery.

Another example is a Property Line Adjustment, which costs on average \$400. We are currently charging \$100. The proposed fee is \$300.

The factors involved in determining cost generally are as follows: Overhead, printing, staff time, and mailing/postage/publication. These things vary by application, and the proposed fees are based on that variation and represent an average cost.

In the city's current fiscal situation, staff is recommending that the new fee schedule be adopted in order to minimize impacts on the general fund.

**City Of Dallas  
Land Use Fee Schedule (PROPOSED 3/10)**

<b>Application</b>	<b>Review Procedure</b>	<b>Fee</b>
Pre-application conference		\$150
Street or ROW Vacation		\$1000
Annexation	Type IV	1 acre or less \$2000, more than 1 acre \$3000
Code Interpretation	Type II	\$500
Code Text Amendment	Type IV	\$2500
Comprehensive Plan Amendment	Type IV	\$3500
Conditional Use Permit	Type III	\$1000
Home Occupation Permit Type I	Type I	\$200
Home Occupation Permit Type III	Type III	\$700
Master Planned Development	Type III	\$2000 + \$75/unit
Final Plat	Type I	\$500 + \$10/unit
Modification to Approval	Type II minor Type III major	\$500 ½ the cost of application fee
Land Use District Map Change Quasi-Judicial (does not require a plan amendment)	Type III	\$2500
Legislative (plan amendment)	Type IV	\$5000
Property Line Adjustments, including Lot Consolidations	Type I	\$300
Legal Lot Determination	Type I	\$200
Non-Conforming Use or Development Confirmation	Type I	\$200
Partition or Replat of 2-3 lots	Type II	\$400/lot
Land Use Review	Type I/II	Included in Building Permit fee
Site Design Review	Type II	\$500
Site Design Review w/ Adjustment	Type III	\$1000
Subdivision or Replat of >3 lots Preliminary Plat	Type III	\$300/lot for the first 20 lots and \$150 for each additional lot
Final Plat	Type I	\$500
Temporary Use Permit (includes Temporary Medical Hardship Dwelling)	Type II/III	\$500
Variance		
Class A (Adjustment)	Type II	\$300
Class B	Type III	\$700
UGB Amendment	Type IV	\$5000
Floodplain permit	Type I	\$100
Demolition Permit	Type I	\$200
Sign Permit		\$2.50/sq. ft. \$100 minimum + building permit fee (If required)
Outside City Water Application		\$200
Appeal	Type III	\$300 or 1/2 the original application fee, whichever is greater

## DALLAS LAND USE APPLICATION FEES

Effective Date March 20, 2006 Res. 3093  
 Amends May 1, 2001 Resolution 2972 & 2979

<b>Land Use Action</b>	
Annexation 1 acre or less	\$1,500.00
Annexation more than 1 acre	\$2,500.00
Appeal	\$250.00
Comp Plan Amendment	\$2,500.00
Conditional Use	\$500.00
Home Occupations (Type II)	\$100.00
Partitioning/Replat	\$600.00 minimum \$300.00 per parcel
<b>PUD</b>	
per lot for first 6	\$500.00
per lot for next 6	\$300.00
per lot for next 12	\$200.00
per lot for remaining	\$100.00
<b>Subdivision</b>	
per lot for first 6	\$500.00
per lot for next 6	\$300.00
per lot for next 12	\$200.00
per lot for remaining	\$100.00
Vacation of right-of-way	\$500.00
Variance	\$350.00
Zone Change	\$2,000.00
Plan/Zone Review – Development Review	\$100
Lot Line Adjustment	\$100.00
Type II Procedure	\$100.00
Urban Growth Boundary Amendment	\$2,500.00

**Signs**  
 City Code 9.906

Ground signs and projection signs	\$1.50 square feet, \$75.00 Minimum
All others	\$1.50 square feet, \$50.00 Minimum

**Sidewalks:** \$25.00  
**Driveways:** \$50.00  
**Demo Permits:** \$200.00



Community Development Department

## Memo

**To:** Admin Subcommittee  
**From:** Jason Locke, Community Development Director   
**Date:** May 17, 2010  
**Re:** RV Parking (Municipal Code 6.600) Update

---

The City Council referred this issue back to the subcommittee primarily to address the issue that 6.610(3) should be a 6-month period (instead of One year). However, concerns were raised that the 14 consecutive days could be at the end and beginning of a 6-month period, thereby allowing 28 consecutive days if it were timed right. In order to address this issue, staff recommends that following language be added:

***In addition, if a single period of occupancy extends more than ten consecutive days, the camper, motor home or travel trailer may not be occupied again until at least 30 days from the end of the period of occupancy.***

ORDINANCE NO. \_\_\_\_\_

An Ordinance Amending Dallas City Code Sections 6.610 regarding recreational vehicle parking permits; and repealing conflicting provisions.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. DCC 6.610, entitled "Parking Permit," is amended to read as follows:

**6.610 Parking Permit.**

(1) A permit may be obtained by filing an application at the office of the city manager, accompanied by a fee in an amount set by the council by resolution. The application shall include the location and description of the camper, motor home, or travel trailer, the character and duration of occupancy, the character of water and sanitary facilities available, and any other information which the city manager considers necessary to carry out the purpose of sections 6.600 to 6.615.

(2) If the city manager determines that the issuance of a permit will not contravene the purpose of sections 6.600 to 6.615 or of any applicable code provision, the manager may issue a permit authorizing the applicant to park or place and occupy the described camper, motor home, or travel trailer, and may attach conditions necessary to carry out the purpose of sections 6.600 to 6.615.

(3) The period of occupancy granted under the permit shall not exceed 14 consecutive days, or 21 days during any consecutive six-month period. In addition, if a single period of occupancy extends more than ten consecutive days, the camper, motor home or travel trailer may not be occupied again until at least 30 days from the end of the period of occupancy.

Section 2. All prior and conflicting ordinances are hereby repealed.

Read for the first time:	April 5, 2010
Read for the second time:	April 19, 2010
Passed by the City Council:	April 19, 2010

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Members Present: Chair David Shein, Dave Voves, and Ken Woods, Jr. Excused: Kevin Marshall.

Also Present: City Manager Jerry Wyatt, Mayor Jim Fairchild, City Attorney Lane Shetterly, Community Development Director Jason Locke, Assistant City Manager Kim Marr, and Recording Secretary Emily Gagner.

Chair Shein called the meeting to order at 4:01 p.m.

**Street Tree Removal**

Mr. Locke reviewed his staff report. He stated staff was proposing to add street tree removal back to the Municipal Code. He noted the Development Code would continue to contain the requirements for street trees in new development. Mr. Shetterly stated he updated the Code language to reflect the changes from the past few years. Councilor Woods asked if this would apply to public or private trees. Mr. Shetterly indicated it would apply only to trees in the parking strip or right-of-way. It was moved by Councilor Voves and seconded by Councilor Woods to forward the proposal to the full Council. The motion carried unanimously.

**Community Development Director's Report**

Mr. Locke reported the new roof was installed on City Hall and there were no leaks. He noted there was some damage to some ceilings in City Hall when it rained while the work was being completed. The contractor will repair that damage in mid-June.

Mr. Locke stated building activity is up this year, noting they had surpassed \$100,000 in revenue. Councilor Woods asked if that was residential or commercial building. Mr. Locke explained it was both.

Mr. Locke explained the Dallas Aquatic Center would close the week of June 13 for annual repairs. He stated they would resurface the leisure pool, do routine clean up, and complete the final energy efficiency walk-through. He added staff would work on cleaning up and enhancing the outside concrete patio area to make it more useable and attractive to patrons this summer.

**Other**

There was no other business and the meeting was adjourned at 4:06 p.m.

## **MEETING AGENDA**

### **BUILDING AND GROUNDS COMMITTEE**

Monday, May 24, 2010

4:00 p.m.

David Shein, Chair  
Kevin Marshall  
Dave Voves  
Ken Woods, Jr.

1. Street Tree Removal
2. Community Development Director's report
3. Other
4. Adjourn



## Community Development Department

### Memo

**To:** Buildings and Grounds Subcommittee  
**From:** Jason Locke, Community Development Director   
**Date:** May 17, 2010  
**Re:** Street Tree Removal

---

When the City adopted the new Development Code, the section dealing with tree removal was inadvertently left out. This was an oversight due to the fact that all the requirements related to street tree care, pruning, etc was actually located in the Municipal Code, so there was a discontinuity. The proposed new Municipal Code section sets the process and standards for street tree removal and replacement, as well as incorporating the current stump removal requirement. The Development Code will continue to contain the requirements for new street trees.

### 3.740. Removal of trees.

(1) No person shall remove or cause to be removed a street tree without first obtaining a permit and complying with the requirements set forth in this section.

(2) A person may remove a street tree only if the street tree is diseased or, by reason of its location or condition, constitutes a nuisance or hazard to public safety.

(3) A person wishing to remove a street tree shall submit an application for a tree removal permit with the Community Development Director. The application shall be accompanied by a fee as the council may establish by resolution, and shall include the following:

(a) Facts that establish the reason for the removal of the tree, including the location, size, species and health of the tree;

(b) Evidence satisfactory to the Director that the applicant has the right to remove the tree;

(c) The name of the person or entity that will remove the tree and the person's or entity's qualifications. The tree may be removed only by the person or entity identified on the application.

(4) An application under this section shall be accompanied by a report of an arborist that supports the application, unless this requirement is excused in the case of an emergency or for other good cause by the Director.

(5) The person removing the tree shall obtain a good and sufficient bond or policy of general liability insurance insuring the City, its directors, officers, employees and agents, against liability for property damage, personal injury and death arising from or related to the removal of the tree, in such amount as the Director deems sufficient, and shall agree to defend, indemnify and hold the City, its directors, officers, employees and agents harmless from all claims, liabilities, demands arising from or relating to the removal of the tree.

(6) All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(7) The Director may, as a condition of a permit under this section, require the applicant to replant a tree to replace the tree removed, in accordance with Dallas Development Code 3.2.040. If the Director determines that it would be unsafe, impractical or inappropriate to replant a tree on the same property as the property from which the tree was removed, the Director may require the applicant to pay the cost of replanting a tree to replace the tree removed on other public property. Such cost shall include the cost of the tree and a reasonable charge for labor, materials and equipment used to plant the tree.

(8) In addition to the penalty provided in Section 3.820, a person who removes a street tree without first obtaining a permit under this Section shall be subject to prosecution for a criminal offense under this code or under state law.

## **CITY OF DALLAS PARK AND RECREATION BOARD**

May 25, 2010 Meeting Minutes

Members present were: Chair Rich Slack, Mayor Jim Fairchild, Barbara Chaney, Christopher Castelli, Carol Mannen, Sue Rohde, and June Krause. Also present were Bonnie Drier of the Dallas Area Chamber of Commerce and Visitor's Center and Michele Campione.

Staff members present were: City Manager Jerry Wyatt, Assistant City Manager Kim Marr, Park Supervisor Ron Lines, and Recording Secretary Patti Senger.

Excused were: Richard Hoffman, Judy Boustead, Jackie Lawson, Mellisa Spivey, Tim Larson, and Todd Nelson.

Chair Rich Slack called the meeting to order at 7:00 p.m. Chair Slack asked if there were any additions or changes to the minutes and Michele Campione stated that she had arrived late to the previous meeting and that it was not noted in the minutes. Chair Slack made a motion to approve the minutes with the change, it was seconded, and they were accepted with the change.

### **ACTION ITEMS**

#### **Capital Improvement Projects (CIP)**

Jerry Wyatt explained that each department in the City creates a CIP list which helps prioritize projects and project funding. He distributed a copy of the previous list created by the Park and Rec Board and Ron Lines reviewed what has been completed. Mr. Wyatt explained that an updated list reflecting the changes made tonight would be mailed to the board and he asked them to contact five citizens each and get their input about projects. Carol Mannen asked that fencing in an area for smaller dogs at the dog park be added to the list. Mr. Lines reiterated the importance of going into the community and asking for ideas to put on the CIP list and Mayor Fairchild added that he would like to see long range planning as well, noting that our one dog park is getting ample use. Bonnie Drier asked when the community feedback should be returned to the board and Mr. Wyatt asked that it be returned for the next meeting.

#### **Rickreall Creek Trail**

Mr. Wyatt informed the board that a citizen group opposing Rickreall Creek Trail in their backyards would be attending the next council meeting. He stated he has met with them at a neighborhood meeting and also with the leaders individually and noted there was misinformation among the group including fear that we would raise taxes to fund the trail and worry of increased criminal activity. He reported that we have

provided information regarding implementation of trails in other communities showing there is a decline in crime rate and property values increase. He reminded them that this trail has been in the comprehensive plan since the 1960's with property owners aware that this plan was in place before they began construction of their homes. Mayor Fairchild explained the proximity of the trail from the homes and added that it would be a fantastic amenity to the community as a whole. He also discussed the timing with upgrades in the sewer system and how moving some of the piping over the creek rather than under the creek would be better by DEQ standards and could simultaneously create walkway bridges over these pipes. Kim Marr explained the need to work with the County Commissioners to connect the trail in Dallas to the existing trail that goes through Monmouth and Independence along the river. She stated that the money is out there for projects like that but we need the support of the county to reach this goal. Mayor Fairchild reminded the board that the money for the next phase of the Rickreall Creek Trail is from a state grant for \$225,000 and it must be used in the next year.

## **PARK UPDATES**

### **Japanese Garden**

Mayor Fairchild stated that he contacted the Japanese American Society in Portland to discuss our Japanese Garden. They referred him to Kurisu International, Inc. where they do restorative garden design and construction and are renowned on the west coast. Mr. Kurisu and two of his assistants came down to inspect the garden and agreed to create an authentic design to restore the garden. Mayor Fairchild indicated and that there was no fee for the design and there may be grants available for completion of the project. He added that Rotary would shift their funds from the Japanese Garden to Rotary Park to put in benches and a covered area. Chair Slack thanked the Mayor for his work.

### **Signature Tree**

Patti Senger explained that the board would tie the search for the signature tree with the 2011 Arbor Day Celebration by holding a photo contest. This would give an entire year to shoot the trees in their best season and bring the community together in search of the Signature tree(s) and a winner would be announced next spring.

### **Cottonwood Trees**

Mr. Lines thanked the Board for using the \$5,000 to remove the cottonwood trees from the Japanese Garden. He explained that with the bad economy the City was able to get more work done for less money including removal of all four trees and the excess wood was donated to Marion County to fund their juvenile program. Chris Castelli

asked about the tracks that were left behind after the tree removal and Mr. Lines responded that the clean up delay was caused by the bad weather.

### **Kingsborough Park**

Mr. Wyatt stated that the playgrounds at Gala, Rotary, Birch, and a section of the City Park have been addressed and that left the Brandvold section of the City Park and Kingsborough Park needing playground equipment upgrades. He reported that Kingsborough Park is utilized frequently, the play structure is falling apart, and due to flooding a storm detention area needs to be put in. The timeline for this would be to install the detention area in the fall, purchase the equipment in the off-season at a reduced rate and install it next year. Mr. Lines explained that he would do the research and bring three choices to the board for approval; keeping in mind that the adopted idea is to provide each park with a structure that is unique, encouraging residents to visit every park for a different play experience.

### **QUESTIONS OR COMMENTS FROM THE PUBLIC OR BOARD**

Ms. Mannen commended the Parks Department for the work they accomplished this spring in spite of the bad weather.

Chair Slack complimented the Arboretum News letter stating it looked nice with the new color.

Ms. Chaney asked about maintenance of the trees on Main Street and noted that some areas look better than others. Mr. Lines explained the working plan to plant a certain number of trees every year for five or six years allowing for maturation of the trees as directed the Community Development Director. In response to a question, Mr. Lines stated the water Jackets are working well although they are time consuming, that we use a water truck to fill them, and they will remain on for three years in an ideal environment, possibly longer due to where they were planted.

Ms. Mannen reported that the Arboretum Board is working with a cultural representative at Grand Ronde and would be adding educational kiosks at both entrances of the Arboretum about native plants and how people used them in the past. Grand Ronde will provide one and they are applying for a grant to purchase the second one. She thought these additions would bring school age children to the Arboretum. She added that they are naming the trails and Sue Rohde stated that the new signs look nice.

Ms. Campione reported that the Senior Center is having their last Thursday Jam night session for the season and June Krause reported that the Old Time Fiddlers was a fun and successful event.

Ms. Campione stated that ICAN is having a youth art contest in June and would announce the winners at Art in the Park during Summerfest.

There was discussion about which bands would be performing at Sounds of Summer this year and Mr. Wyatt informed the Board that the poster with the list of performers and dates was at the print shop and would be available the first of June.

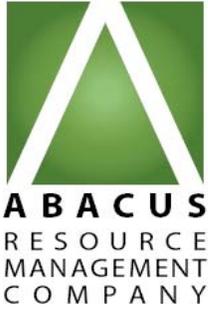
Ms. Drier announced that the first Bounty Market would take place on June 3, with a ribbon cutting at 5:30 on the Courthouse Lawn. There would be 20 vendors total, with 14 full season and a few weekly vendors as well. In answer to a question, she stated that Capricorn Catering would be doing cooking demonstrations with the vendors' products. She added that there would be music, kids events, and wine tastings.

Ms. Drier informed the board that the Summerfest theme this year is "Pirate" and that the outdoor movie nights scheduled for August 17, 24, & 31 were pirate themed as well.

Mayor Fairchild reminded everyone to interview five people for the CIP projects before the next meeting.

## **ADJOURN**

Chair Rich Slack adjourned the meeting at 8:02 p.m.



## **DALLAS AQUATIC CENTER: FINAL ENERGY SAVINGS REPORT THROUGH MAY 2010**

**PROJECT:** ENERGY EFFICIENCY MEASURES AT DALLAS AQUATIC CENTER

**LOCATION:** DALLAS AQUATIC CENTER  
1005 SE Lacreole Drive  
Dallas, OR 97338

**OWNER:** CITY OF DALLAS

**GENERAL CONTRACTOR:** ABACUS RESOURCE MANAGEMENT COMPANY.

**Summary:** After one year (twelve months) of operation the City has saved 181% of the guaranteed natural gas savings and 224% of the guaranteed electric savings for the energy saving projects installed at the Dallas Aquatic Center by Abacus Resource Management Company. This is based on the actual utility bills from June, 2009 through May, 2010 compared to the average utility bills from January 2004 through May 2009. The facility electric use has been reduced by 38%, and the facility gas use has been reduced by 51%. This report contains the documentation of these savings.

**Background:** The City of Dallas contracted with Abacus Resource Management Company to install several energy saving improvements at the Dallas Aquatic Center. As part of the contract terms Abacus Resource Management Company will not receive their final payment from the City of Dallas until they have documented that the City has achieved at least 90% of the annual energy savings that were predicted in the final energy audit. The energy saving project included a solar water heating system, new lights, new boilers, variable speed drives (VSDs) on the new hot water pumps, a heat recovery system for the locker room air handler, and a new DDC (direct digital controls) system incorporating advanced energy saving control strategies. This project was substantially completed in May, 2009, and the utility bills since that time have been evaluated to measure the actual energy savings for this project.

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**Method of Measuring Energy Savings:** The energy savings for this project are measured from the actual utility bills. The annual energy savings is equal to the sum of the twelve monthly energy savings. Each monthly energy savings is calculated by subtracting the actual billed energy use from the baseline (pre-construction) energy use. The baseline energy use for each month is based on the average of the monthly bills from January 2004 through May 2009.

**Total Annual Guaranteed Energy Savings:** The final energy audit predicted a total annual energy savings for the project of 46,000 therms and 307,000 kWh. The guaranteed energy savings for this project is equal to 90% of these annual values, or 41,400 therms and 276,300 kWh.

**Total Measured Energy Savings:** The actual energy savings (based on actual utility bills) is equal to 75,135 therms and 618,948 kWh. The additional savings achieved for this project is attributed to both a conservative approach during the original energy audit as well as correcting additional deficiencies identified with the existing systems during the construction and commissioning process.

**Method to determine Monthly Predicted Guaranteed Energy Savings:** The guaranteed savings are for the year, but in order to track the progress of the savings on a monthly basis we needed to predict the monthly savings for both electricity and natural gas. The monthly electric savings for this project are fairly even throughout the year, and the monthly predicted electric savings are calculated as follows:

$$\text{Monthly Savings} = \text{Annual Savings} \times \text{Monthly Average Use} / \text{Annual Average Use}$$

The monthly natural gas savings for this project are not even throughout the year. The solar saves more energy in the summer, and none in the winter. The heating measures save more energy in the winter and less in the summer. Thus the predicted monthly savings for natural gas was calculated in two parts, one for the solar measure and one for all of the other measures. The monthly solar savings were calculated by the RETScreen software on a month by month basis. The remaining monthly heating savings was calculated as follows:

$$\text{Monthly Savings} = \text{Total Heating Savings} \times \text{Monthly Heating Use} / \text{Annual Heating Use}$$

**Summary Tables of Measured Energy Savings:** The tables on the following two pages summarize the measured energy savings to date for this project, and compare this to the predicted monthly savings.



## NATURAL GAS SAVINGS

<u>Month</u>	Pre-Project Average Energy Use (therms)	Post- Project Actual Energy Use (therms)	Savings Measured from the Utility Meter (therms)	Total Guaranteed Savings (Based on 90% of Energy Audit) (therms)
Jan	18,017	5,812	12,205	4,914
Feb	16,308	6,144	10,164	4,439
Mar	14,904	5,563	9,341	4,050
Apr	13,243	5,111	8,132	3,729
May	12,111	3,830	8,281	3,689
Jun	10,048	5,862	4,186	3,219
Jul	7,497	4,632	2,865	2,675
Aug	5,861	3,367	2,494	2,187
Sep	6,889	4,255	2,634	2,285
Oct	9,899	6,638	3,260	2,775
Nov	11,769	7,880	3,889	3,180
Dec	15,656	7,971	7,685	4,258
Totals	142,201	67,065	75,135	41,400

	Therms
Guaranteed Annual Savings	41,400
Actual Savings	75,135
<b>Actual Savings / Guaranteed Savings</b>	<b>181%</b>

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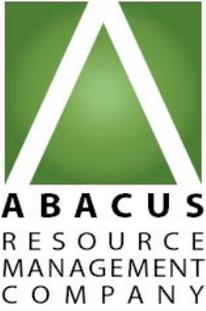


## ELECTRIC SAVINGS

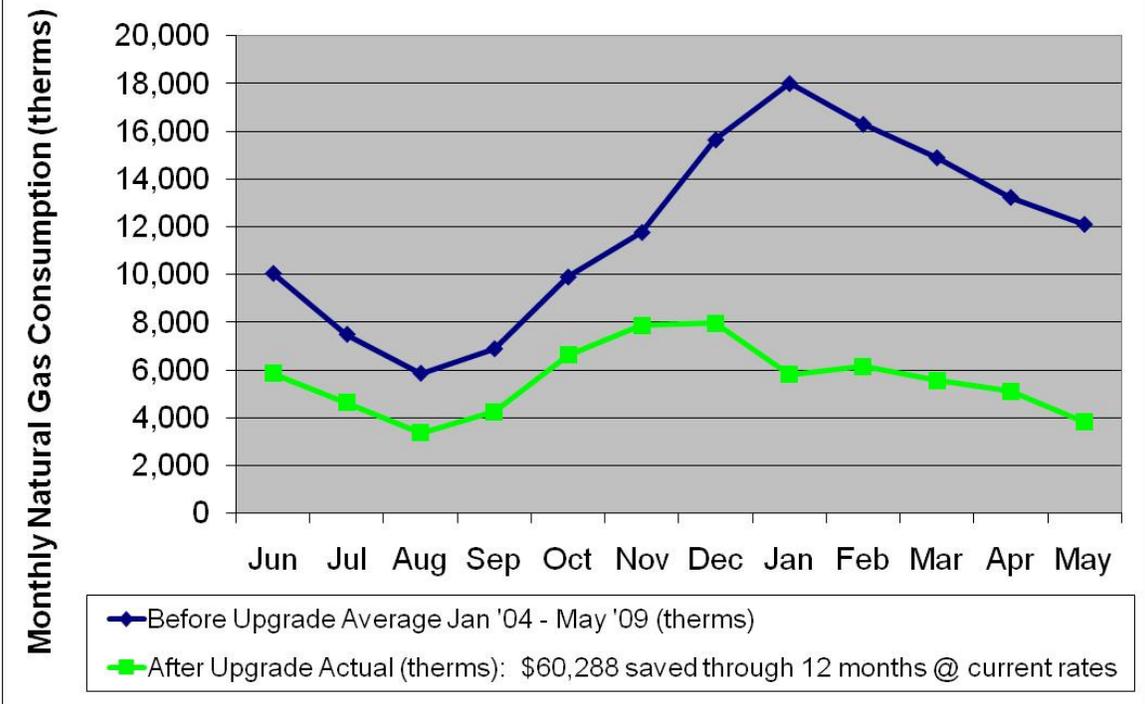
<u>Month</u>	Pre-Project Average Energy Use (kWh)	Post-Project Actual Energy Use (kWh)	Savings Measured from the Utility Meter (kWh)	Total Guaranteed Savings (Based on 90% of Energy Audit) (kWh)
Jan	143,553	73,040	70,513	24,665
Feb	126,333	80,880	45,453	21,706
Mar	130,647	59,460	71,187	22,448
Apr	130,673	77,040	53,633	22,452
May	123,033	76,280	46,753	21,139
Jun	140,120	106,800	33,320	24,075
Jul	137,296	77,400	59,896	23,590
Aug	133,024	104,840	28,184	22,856
Sep	141,352	93,400	47,952	24,287
Oct	127,544	76,600	50,944	21,914
Nov	126,776	75,160	51,616	21,783
<u>Dec</u>	<u>147,736</u>	<u>88,240</u>	<u>59,496</u>	<u>25,384</u>
Totals	1,608,088	989,140	618,948	276,300

	kWh
Guaranteed Annual Savings	276,300
Actual Savings	618,948
<b>Actual Savings / Guaranteed Savings</b>	<b>224%</b>

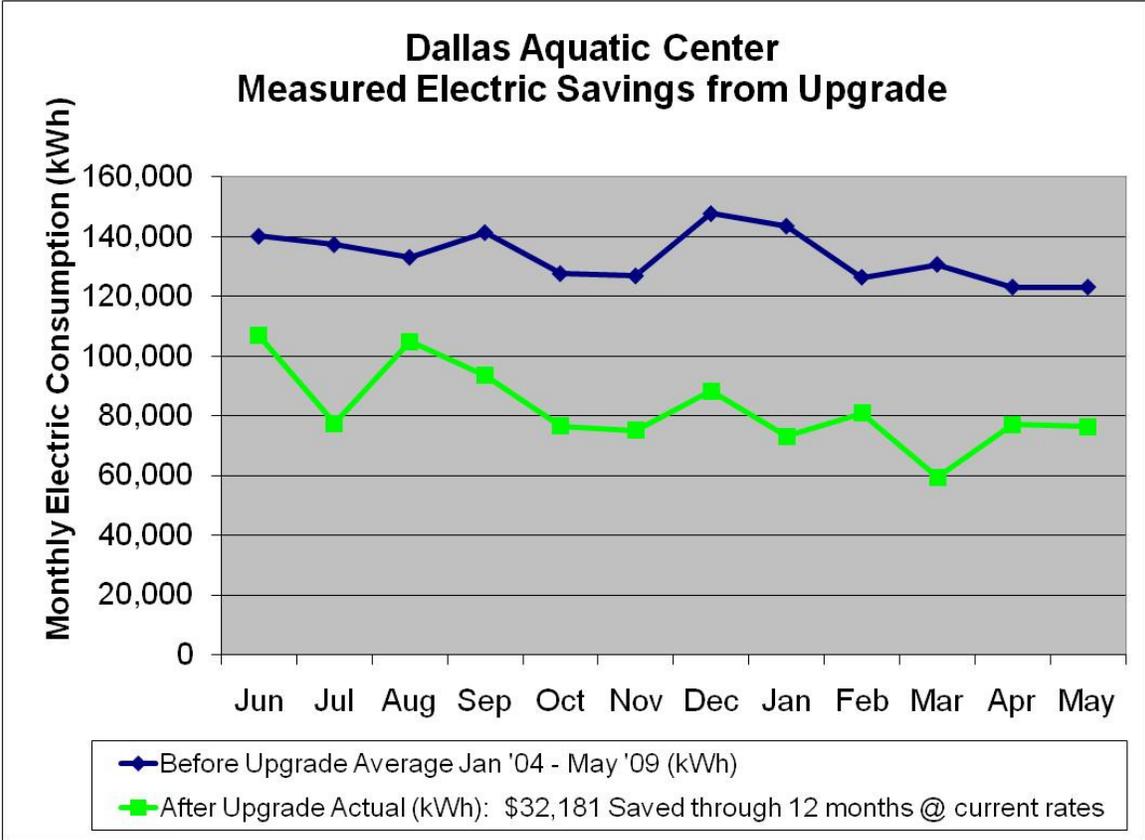
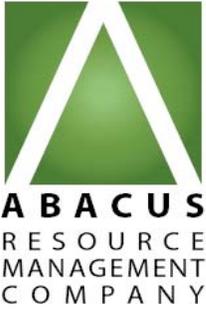
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### Dallas Aquatic Center Measured Natural Gas Savings from Upgrade



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# DALLAS CITY COUNCIL

## REPORT

**TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No.</b> <b>7 a</b>	<b>Topic:</b> City insurance coverage
<b>Prepared By:</b> Emily Gagner	<b>Meeting Date:</b> June 7, 2010	<b>Attachments:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<b>Approved By:</b> Jerry Wyatt		

RECOMMENDED MOTION:

Motion to authorize the City Manager to sign the recommended general liability, property, and automobile insurance proposal from CIS.

Motion to authorize the City Manager to sign the workers' compensation insurance proposal from CIS.

BACKGROUND:

Ken Woods, the City's Insurance Agent of Record, has submitted renewal quotes for the city's general liability, property, and automobile insurance, as well as the city's workers compensation insurance.

FISCAL IMPACT:

There is a reduction of \$81,032 in the cost of premium for the city's general liability, property, and automobile insurance for the 2010-11 fiscal year.

There is a reduction of \$7,585 for the workers' compensation insurance for the 2010-11 fiscal year.

ATTACHMENTS:

Insurance Agent of Record Ken Woods' renewal proposals for General Liability, Property, & Automobile Insurance and Workers' Compensation Insurance.

# **CRAVEN-WOODS INSURANCE**

398 E. Ellendale Avenue  
PO Box 1130  
Dallas OR 97338-1047  
503-623-8143  
fax: 503-623-9020  
email: ken.woods@cravenwoodsins.com

June 3, 2010

Jerry A. Wyatt, City Manager  
City of Dallas  
187 SE Court Street  
Dallas OR 97338

Re: General Liability, Property, & Automobile Insurance  
Renewal Quote: 2010-2011

Dear Jerry,

Please find enclosed the renewal quote with City/County Insurance Services (CIS). In the past several years, Dallas has chosen the Annual Aggregate Deductible program with CIS. With this program, Dallas would elect to assume the first \$35,000 in liability losses and loss adjusting expenses for the policy year. In exchange, you'll see your initial contribution for the year reduced by \$26,250. Once into the program, the City would continue to submit claims just as though there was no deductible, claims work would be done, as always, through CIS Claims Department. As handling of a claim progressed, the City would be billed for indemnity payments made and claim expenses incurred, outside those of CIS's claims administrator, until the annual deductible amount was met.

Included is a copy of the City's claims overview and comparison for Auto Liability, Auto Physical Damage, General Liability, and Property.

Repeating a pattern seen in previous insurance market cycles, commercial insurance companies continue to withdraw from the Oregon market place relating to public entity insurance. Unable or unwilling to match pricing for the combination of coverage and risk management services offered by CIS, the scarcity of liability and property insurers leaves CIS as the clear alternative for entities seeking insurance coverage.

Please don't hesitate to call me if there are any questions.

Sincerely,



Kenneth L. Woods, Jr.  
Insurance Agent of Record, City of Dallas  
KLW:ekb

enclosures

## GENERAL LIABILITY, PROPERTY, AUTOMOBILE INSURANCE

	<u>2009-2010</u>	<u>2010-2011</u>
General Liability \$5,000,000 Aggregate Deductible \$35,000	\$ 90,842	\$ 86,752
Automobile Liability \$5,000,000	15,832	14,437
Liability Aggregate Deductible Cr Deductible: \$35,000	-26,250	-26,250
Automobile Physical Damage	12,165	11,591
Deductibles:		
Comprehensive \$100		
Collision \$1,000		
Property Coverage	37,250	36,094
\$5,000,000 Limit EQ & Flood		
\$50,000 Limit Crime		
Deductibles:		
Buildings & Contents \$ 2,500		
Mobile Equipment 2,500		
Earthquake (see below)		
Flood (see below)		
Boiler & Machinery	incl	incl
Deductible: \$ 2,500		
Optional Excess Crime \$500,000	1,041	1,158
Multi-Line Credit	-2,597	-9,197
Distribution Credit	n/a	-67,334
Total Annual Premium	<u>\$128,283</u> =====	<u>\$ 47,251</u> =====

### Earthquake Deductible:

2% of combined value of property damaged, subject to a \$5,000 minimum and \$50,000 maximum.

### Flood Deductible:

- \$500,000 deductible for properties in flood zones A, AE or V.
- 2% of the value of property damaged for properties in flood zones other than A, AE or V, subject to \$5,000 minimum and \$50,000 maximum.
- 5% of the value of properties in flood zones A, AE or V and are not eligible for coverage by NFIP, subject to a \$100,000 minimum and \$500,000 maximum.
- The maximum value of coverage NFIP offer in flood zones A, AE or V is \$500,000 per location.
- For property in flood zones A, AE or V valued over \$500,000, by buying coverage through NFIP, you satisfy the CIS deductible of \$500,000.

CITY OF DALLAS  
Auto Liab, Auto Physical Damage Claims  
As of May 31, 2010

**Auto Liability**

**Auto Physical Damage**

Year	Cost of Claim	Closed Claims	Open Claims	Cost of Claim	Closed Claims	Open Claims
1983-84	\$ 330.00	0	0	\$ -	0	0
1984-85	\$ -	0	0	\$ -	0	0
1985-86	\$ -	0	0	\$ -	1	0
1986-87	\$ -	0	0	\$ -	0	0
1987-88	\$ 450.00	1	0	\$ -	0	0
1988-89	\$ 350.00	1	0	\$ -	0	0
1989-90	\$ -	0	0	\$ -	0	0
1990-91	\$ 1,944.00	1	0	\$ -	1	0
1991-92	\$ -	0	0	\$ -	2	0
1992-93	\$ -	1	0	\$ -	1	0
1993-94	\$ -	0	0	\$ -	0	0
1994-95	\$ -	0	0	\$ -	0	0
1995-96	\$ 121.00	2	0	\$ -	1	0
1996-97	\$ 545.00	1	0	\$ 2,528.00	3	0
1997-98	\$ 715.00	2	0	\$ -	1	0
1998-99	\$ 101,477.00	3	0	\$ 5,373.00	3	0
1999-00	\$ -	0	0	\$ -	0	0
2000-01	\$ 5,610.00	2	0	\$ -	0	0
2001-02	\$ 266.00	1	0	\$ -	1	0
2002-03	\$ -	0	0	\$ -	1	0
2003-04	\$ 74,576.00	5	0	\$ 2,814.00	1	0
2004-05	\$ -	0	0	\$ -	1	0
2005-06	\$ -	0	0	\$ -	2	0
2006-07	\$ 9,124.00	4	0	\$ 1,151.00	2	0
2007-08	\$ -	0	0		0	0
2008-09	\$ 2,950.00	2	0	\$ 2,867.00	3	0
2009-10	\$ 41,487.00	0	3	\$ 55,350.00	0	1
	\$ 239,945.00	26	3	\$ 70,083.00	24	1
Average	\$ 8,887.00			\$ 2,596.00		

CITY OF DALLAS  
Liability, Property Claims  
As of May 31, 2010

**General Liability**

**Property**

Year	Cost of Claim	Closed Claims	Open Claims	Cost of Claim	Closed Claims	Open Claims
1983-84	\$ 651.00	2	0	\$ -	0	0
1984-85	\$ 3,586.00	1	0	\$ -	0	0
1985-86	\$ 7,762.00	8	0	\$ -	0	0
1986-87	\$ 8,239.00	7	0	\$ -	0	0
1987-88	\$ -	5	0	\$ -	0	0
1988-89	\$ 1,341.00	7	0	\$ -	0	0
1989-90	\$ 10,617.00	5	0	\$ -	0	0
1990-91	\$ 3,626.00	4	0	\$ -	0	0
1991-92	\$ 8,583.00	7	0	\$ -	0	0
1992-93	\$ 1,825.00	8	0	\$ -	0	0
1993-94	\$ 132,263.00	10	0	\$ -	0	0
1994-95	\$ 44,923.00	8	0	\$ -	0	0
1995-96	\$ 29,180.00	9	0	\$ -	0	0
1996-97	\$ 5,042.00	10	0	\$ -	0	0
1997-98	\$ 104,428.00	3	0	\$ -	0	0
1998-99	\$ 78,379.00	4	1	\$ -	0	0
1999-00	\$ 5,185.00	10	0	\$ -	0	0
2000-01	\$ 16,263.00	5	0	\$ 450.00	1	0
2001-02	\$ 275.00	2	0	\$ -	0	0
2002-03	\$ 257,286.00	4	0	\$ -	1	0
2003-04	\$ 4,345.00	8	0	\$ -	0	0
2004-05	\$ 70.00	2	0	\$ -	0	0
2005-06	\$ -	4	0	\$ -	0	0
2006-07	\$ -	2	0	\$ -	0	0
2007-08	\$ 36,309.00	16	0	\$ -	0	0
2008-09	\$ -	3	0	\$ -	0	0
2009-10	\$ (500.00)	1	0	\$ 2,904.00	1	0
	\$ 759,678.00	155	1	\$ 3,354.00	3	0
Average	\$ 28,136.00					



# CIS Conference Update

## Reap What You've Sown: P/C Trust Surplus Distribution Credits \$5.4 million to Members

The theme of this year's CIS Conference is "Reap What You Sow", to remind us all that investments in risk management now can pay off in cost savings down the road. That theme is even more relevant today, as the CIS Board of Trustees declares a one-time distribution of \$5.4 million in Member Equity Surplus funds in the Property/Casualty Trust.

The distribution rewards renewing members whose participation helped build surplus in Liability, Auto Physical Damage and Property funds in the years between 1992-93 and 1999-2000.

Member equity in the joint self-insured P/C Trust recently grew to \$52.4 million, in large part because members gave close attention to managing risk. Members kept pool losses at levels below initial projections. The resulting growth in surplus funds enabled the CIS Board of Trustees to decrease rates for renewing members in recent years. Even with the rate decreases, good financial and risk management continued to build reserves.

At its December 10, 2009 meeting, the CIS Board of Trustees closed out older program years and declared the one-time, \$5.4 million distribution. Eligible members will receive their earned portion of the distribution in the form of credits towards the cost of CIS coverage in FY2010-11.

If your entity is eligible for a portion of the distribution, the amounts are shown, by year and by line of coverage, at right.

Despite the distribution, member equity in the P/C Trust remains strong, as it does for the CIS Benefits trusts. The CIS Board will continue to use reserve funds to benefit the general membership, supporting actions and strategies directed towards preventing claims and stabilizing rates.

### Dallas

	Auto Liability	Auto Property	Gen. Liability	Property	Total
1992-1993	5,221	9,489	0	0	14,709
1993-1994	10,220	15,813	0	0	26,033
1994-1995	6,271	13,186	4,550	0	24,007
1995-1996	5,306	2,290	0	0	7,596
1996-1997	3,492	0	0	0	3,492
1999-2000	7,434	0	1,075	12,173	20,682
<b>Total</b>	<b>\$37,944</b>	<b>\$40,776</b>	<b>\$5,626</b>	<b>\$12,173</b>	<b>\$96,519</b>



### New CIS "Address"

We've changed the URL for the CIS Website and Members Only Portal... find us beginning Monday, February 8 at [www.cisoregon.org](http://www.cisoregon.org). Staff e-mail addresses are also changing to the format [firstname.lastname@cisoregon.org](mailto:firstname.lastname@cisoregon.org).



# AT THE LEAGUE

...

## Risk Pool Members Reap Benefits from Surplus Distribution



Oregon cities, counties and other public entities share benefits and risks as member-owners of City County Insurance Services (CIS). Those who are members of CIS' Property/Casualty Trust (P/C Trust) recently learned of another solid, dollars-and-cents benefit of loyalty to the CIS program: a financial distribution of surplus funds.

Member equity in the joint self-insured P/C Trust recently grew to \$52.4 million, in large part because members gave close attention to managing risk. Members kept pool losses at levels below initial projections. The resulting growth in surplus funds enabled the CIS Board of Trustees to decrease rates for renewing members in recent years. Even with the rate decreases, good financial and risk management continued to build reserves.

At its December 10, 2009 meeting, the CIS Board of Trustees closed out older program years and declared a one-time combined distribution to counties and cities of \$5.4 million in

Member Equity Surplus funds in the P/C Trust. The distribution rewards renewing members whose participation helped build surplus in Liability, Auto Physical Damage and Property funds in the years between 1992-93 and 1999-2000.

Eligible members will receive their earned portion of the distribution in the form of credits towards the cost of CIS coverage in FY 2010-11. Members received notice of the actual dollar amount of their city's allocation at the CIS Risk Management Conference earlier this month.

Despite the distribution, member equity in the P/C Trust remains strong, as it does for the CIS Benefits trusts. The CIS Board will continue to use reserve funds to benefit the general membership, supporting actions and strategies directed towards preventing claims and stabilizing rates. ■

On the Web: For more information visit: [www.cisoregon.org](http://www.cisoregon.org).

Thank you  
to attendees, presenters and  
sponsors of the 9th Annual CIS  
Risk Management Conference!



Special thanks to our sponsors:

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# CRAVEN-WOODS INSURANCE

398 E. Ellendale Avenue  
PO Box 1130  
Dallas OR 97338-1047  
503-623-8143  
fax: 503-623-9020  
email: ken.woods@cravenwoodsins.com

June 3, 2010

Jerry A. Wyatt, City Manager  
City of Dallas  
187 SE Court Street  
Dallas OR 97338

Re: Workers Compensation Insurance  
Renewal Quote: 2010-2011

Dear Jerry,

The CIS renewal quote this year for the City of Dallas' workers compensation policy is the Paid Loss Retrospective Plan (Retro) for \$31,733, down \$7,585 from last year's quote. The City has been on the Retro Plan for years and it has been very successful for the City. This decrease is influenced by the following factors:

- (-) Estimated payrolls decreased from \$6,954,900 in 2009 to \$6,403,611 in 2010.
- (+) Experience modification slightly increased from .89 in 2009 to .95 in 2010.
- (-) Overall rates have slightly decreased from 2009 to 2010.

Experience mod factors are figured on the current three-year experience period. For this renewal period, the experience period is from 2006-07 through 2008-09. The coverage year of 2005-06 came off while the coverage year of 2008-09 was added. Even though Primary Actual Losses of \$41,645 were removed and \$50,801 was added, payroll decreasing was the major factor in the Workers Compensation premium reducing from last year.

#### Primary Actual Losses Summary

2008-09	.88	2004-05	\$10,514	2009-10	.89	2005-06	\$ 9,902	2010-11	2006-07	.95	\$22,066
		2005-06	\$ 9,439			2006-07	\$22,066		2007-08		\$ 9,459
		2006-07	\$21,692			2007-08	\$10,239		2008-09		\$19,276
			\$41,645				\$42,207				\$50,801

Losses will need to exceed \$76,581 to meet the total estimated cost of the Guaranteed Cost Plan. Enclosed is a Worker's Compensation overview and comparison.

Sincerely,



Kenneth L. Woods, Jr.  
Insurance Agent of Record, City of Dallas  
KLW:ekb

enclosures

CITY OF DALLAS  
Workers Comp Loss Summary  
As of May 31, 2010

	YEAR	COST OF CLAIM	CLOSED CLAIMS	OPEN CLAIMS
1.	CIS 1987-88	\$4,081.00	27	0
2.	CIS 1988-89	\$6,359.00	17	0
3.	CIS 1989-90	\$47,243.00	8	0
4.	CIS 1990-91	\$37,783.00	10	0
5.	CIS 1991-92	\$784.00	4	0
6.	SAIF 1992-93	\$1,548.00	?	0
7.	SAIF 1993-94	\$34,467.00	?	0
8.	SAIF 1994-95	\$9,718.00	?	0
9.	SAIF 1995-96	\$25,481.00	?	0
10.	CIS 1996-97	\$17,141.00	14	0
11.	CIS 1997-98	\$426.00	7	0
12.	CIS 1998-99	\$10,216.00	5	0
13.	CIS 1999-00	\$4,475.00	21	0
14.	CIS 2000-01	\$31,163.00	15	0
15.	CIS 2001-02	\$30,095.00	9	0
16.	CIS 2002-03	\$20,094.00	13	0
17.	CIS 2003-04	\$58,871.00	19	0
18.	CIS 2004-05	\$20,781.00	16	0
19.	CIS 2005-06	\$17,304.00	13	0
20.	CIS 2006-07	\$49,912.00	19	0
21.	CIS 2007-08	\$10,276.00	11	0
22.	CIS 2008-09	* \$93,231.00	15	1
23.	CIS 2009-10	* \$22,253.00	6	4
		\$553,702.00	249	5

Total Average = \$24,074.00

Last Five Year Average (not including current t year) = \$38,301.00

\* = includes reserves on open claims



June 2, 2010

Jerry Wyatt, City Manager  
City of Dallas  
187 SE Court Street  
Dallas, OR 97338

Dear Mr. Wyatt,

Thank you, the City Council and all of the City of Dallas staff for your continued support of the annual Summerfest activities, hosted by the Dallas Area Chamber of Commerce.

We have previously received date approval from the City Council of Thursday, July 29th thru Sunday, August 1st, recognizing that all downtown activities are Thursday thru Saturday then the focus shifts to the City Park for activities planned by the Dallas Rotary, Dallas Arts Association and the Delbert Hunter Arboretum.

As has happened in the past, we are making the following detailed requests:

**Street Closures:** *For all day Thursday, Friday & Saturday*

- Court Street from Main to Shelton
  - Trailer vendors will be positioned along the northwest side of Court Street.
  - The Fire Department will host 'Hydro Cart Races' on Friday and the 'Vehicle Rescue Competition' on Saturday along Court Street from Shelton to Jefferson.
- Mill Street from Main to Jefferson
  - We will be parking the Pirate Ship there and we are working with a vendor that will be bringing a game trailer, inflatable slide and bouncy house.

**Closures for the Parade:** *For Saturday only, July 31<sup>st</sup> from 8:00AM-1:00PM*

We anticipate the parade completing at 12:30PM and will need approximately a half hour to clean up and allow the crowds to disperse.

The parade route officially starts at Washington & Jefferson, completing the one-way loop, ending at Main & Washington {parade entries will be directed to Clay for dispersal}.

- Main and Jefferson Streets, between Walnut and Clay.
  - No traffic should be allowed on Main and Jefferson Streets from 9:30AM-1:00PM due to the presence of parade performers and the large number of children.
  - Please allow Parade and Summerfest Personnel access. All will be identified with badges and some will be operating golf cart-type vehicles in the area.
- Thru traffic on Washington Street from Uglow to Jefferson from 8:00AM-1:00PM



**Parking:**

- Barricade parking stalls along the Courthouse Lawn; Main, Mill and Court Streets from 5:00PM on Wednesday, July 28<sup>th</sup> to 9:00PM on Saturday, July 31<sup>st</sup>.
  - Informational signs to be posted on Tuesday afternoon to alert folks of the Wednesday deadline, to prevent from having to locate or tow a downtown patron.
- Vendors & Entertainers will again have 'Parking Passes' - as it's proven helpful to the Police Department for the last 5 years.
- We would also like to set aside handicap accessible parking close to downtown and will need assistance in identifying those locations to the public.

**Additional:**

- Official Proclamation of Summerfest 2010 at our "Kick Off Party" on Tuesday the 27<sup>th</sup>.
- The last several years, the City laid fresh beauty bark, re-painted lines for the streets and parking stalls and cleaned the streets with the street sweeper and flusher – we'd love to see it again this year!
- Permission to hold live music on the Courthouse Lawn during Thursday, Friday & Saturday.
- Due to budget constraints this year, we will not be able to hire additional security, so we would appreciate strong police security surveillance during the duration of Summerfest in the downtown area, beginning on 5:00PM on Wednesday to 9:00PM on Saturday.
- The use of the parking lot at the City Shops for horse trailer parking the morning of the Parade, Saturday July 31<sup>st</sup> from 6:00AM to 2:00PM
- Police Unit Escort at the start of the Parade to lead the route at 11:00AM and to end the Parade at approximately 12:30PM.
- Street cleaning immediately after the Parade along the Parade route on Saturday.
  - We are working with volunteers, Polk County and Allied Waste regarding clean up.
- We will host the Teen Dance in the Bank of America Parking Lot on Saturday evening and would appreciate assistance from the police department.
- Recommend that the downtown area, to include the side streets, be swept with the street sweeper within 48 hours of the close of Summerfest.

The Dallas Area Chamber of Commerce continues to list the City of Dallas as an additional insured on our liability policy. A copy of this will be filed with the City.

Please let me know if you have any questions, concerns or recommendations.  
Thank you for your continued support!

Sincerely,

Chelsea Pope  
Executive Director

cc: Chamber Board of Directors

# DALLAS CITY COUNCIL

## REPORT

**TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 8a</b>	<b>Topic:</b> Resolution 3200 Land Use Fees
<b>Prepared By:</b> Jason Locke, Com Dev Director	<b>Meeting Date:</b> June 7, 2010	<b>Attachments:</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Approved By:</b> Jerry Wyatt		

**RECOMMENDED ACTION:**

Adopt Resolution 3200

**BACKGROUND:**

With the adoption of the new development code, staff discovered that the existing land use fee schedule did not correlate with types of land actions contained in the new development code (such as site plan review, floodplain permits, and final plats). In addition, we determined that the fees being charged did not cover the costs of processing the applications. In many cases, the cost recovery is far less than 50%. That means that the city general fund is subsidizing the cost of new development applications.

As an example, the cost of processing a Conditional Use permit is approximately \$1200. We currently charge \$500. That leaves \$700 being subsidized. The proposed fee is \$1000, much closer to full cost recovery. Another example is a Property Line Adjustment, which costs on average \$400. We are currently charging \$100. The proposed fee is \$300.

The factors involved in determining cost generally are as follows: Overhead, printing, staff time, and mailing/postage/publication. These things vary by application, and the proposed fees are based on that variation and represent an average cost. In the city's current fiscal situation, staff is recommending that the new fee schedule be adopted in order to minimize impacts on the general fund.

**FISCAL IMPACT:**

It is likely that there will be an increase in land use fee revenue as a result of passage of Resolution 3200. That increase will offset, to some extent, the subsidy of development by the City's general fund.

**ATTACHMENT**

- a) Resolution 3200

RESOLUTION NO. 3200

A Resolution establishing a schedule of fees to be paid for certain Community Development Department land use and zoning permits and services.

WHEREAS, following the adoption of the 2010 Dallas Development Code, a review was undertaken of the City's schedule of fees charged for a variety of land use actions and permits; and

WHEREAS, such review disclosed that the existing schedule of fees did not correspond in some instances with types of land use actions included in the 2010 Dallas Development Code, and that other fees were insufficient to cover the cost of processing the applications and providing the services related to such actions; and

WHEREAS, the City Council has determined that, to the extent reasonable and practical, fees charged for applications and services should be sufficient to cover the cost of processing such applications and providing such services, and that it is therefore appropriate to establish and increase certain fees for land use actions to ensure that the costs related thereto are borne primarily by those who benefit therefrom;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1: The fees shown on Exhibit A, attached hereto and by reference incorporated herein, shall be charged by the Community Development Department for the land use and zoning permits and services indicated.

Section 2: This Resolution shall take effect on passage.

Adopted: June 7, 2010  
Approved: June 7, 2010

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER

**City Of Dallas  
Land Use Fee Schedule  
Adopted by Resolution \*\*\*\*\***

<b>Application</b>	<b>Review Procedure</b>	<b>Fee</b>
Pre-application conference for Type III or IV		\$150
Street or ROW Vacation		\$1000
Address Change		\$50
Annexation	Type IV	1 acre or less \$2000, more than 1 acre \$3000
Code Interpretation	Type II	\$500
Code Text Amendment	Type IV	\$2500
Comprehensive Plan Amendment	Type IV	\$3500
Conditional Use Permit	Type III	\$1000
Home Occupation Permit Type I	Type I	\$200
Home Occupation Permit Type III	Type III	\$700
Master Planned Development	Type III	\$2000 + \$75/unit
Final Plat	Type I	\$500 + \$10/unit
Modification to Approval	Type II minor Type III major	\$500 ½ the cost of application fee
Land Use District Map Change		
Quasi-Judicial (does not require a plan amendment)	Type III	\$2500
Legislative (plan amendment)	Type IV	\$5000
Property Line Adjustments, including Lot Consolidations	Type I	\$300
Legal Lot Determination	Type I	\$200
Non-Conforming Use or Development Confirmation	Type I	\$200
Partition or Replat of 2-3 lots	Type II	\$400/lot
Land Use Review	Type I/II	Included in Building Permit fee
Site Design Review	Type II	\$500
Site Design Review w/ Adjustment	Type III	\$1000
Subdivision or Replat of >3 lots	Type III	\$300/lot for the first 20 lots and \$150 for each additional lot
Preliminary Plat		
Final Plat	Type I	\$500
Temporary Use Permit (includes Temporary Medical Hardship Dwelling)	Type II/III	\$200/\$500
Variance		
Class A (Adjustment)	Type II	\$300
Class B	Type III	\$700
UGB Amendment	Type IV	\$5000
Floodplain permit	Type I	\$100
Demolition Permit	Type I	\$200
Sign Permit		\$2.50/sq. ft. \$100 minimum + building permit fee (If required)
Outside City Water Application		\$200
Appeal	Type III	\$300 or 1/2 the original application fee, whichever is greater

RESOLUTION NO. 3201

A Resolution adopting an amended Affirmative Action Policy and repealing Resolution No. 2226 (1980) and the Affirmative Action Plan adopted thereby.

WHEREAS, by Resolution No. 2226, adopted June 24, 1980, the City of Dallas adopted its Affirmative Action Plan relating to nondiscriminatory employment practices; and

WHEREAS, in light of the passage of time and developments in the laws relating to nondiscrimination and affirmative action, both as to employment practices and the provision of services to the public, it is deemed appropriate to update the City's Affirmative Action Policy; and

WHEREAS, it is the policy of the City of Dallas to not discriminate against any person on the basis of race, religion, color, sex, sexual orientation, national origin, marital status, age, mental or physical disability, veteran's status or other protected status in accordance with applicable laws, unless based on a bona fide and lawful occupational or other qualification; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. The Affirmative Action Policy attached hereto as Exhibit 1 and by reference incorporated herein is hereby adopted and approved as the policy of the City of Dallas.

Section 2. The City of Dallas shall publicize this policy through all appropriate means, including the City website and on all employment announcements.

Section 3. Resolution No. 2226, adopted June 24, 1980, and the Affirmative Action Plan adopted thereby are hereby repealed.

Section 4. This resolution shall be effective upon its passage.

Adopted: June 7, 2010

Approved: June 7, 2010

---

JAMES B. FAIRCHILD, MAYOR

ATTEST:

---

JERRY WYATT, CITY MANAGER

Exhibit 1  
AFFIRMATIVE ACTION POLICY  
City of Dallas

Adopted by Resolution No. 3201  
June 7, 2010

APPLICABILITY

This policy applies to all employees, council members, and contractors of the City of Dallas. This policy applies to all matters relating to hiring, firing, promotion, benefits, compensation and other terms and conditions of employment, as well as delivery of City services.

AFFIRMATIVE ACTION POLICY STATEMENT

The City of Dallas supports the spirit and the letter of equal employment opportunity laws, rules, regulations, affirmative action concepts and the right of all persons to work and advance on the basis of merit, ability, and potential. The City strives to achieve equal employment opportunity and affirmative action objectives through the recruitment, employment and advancement of a diverse workforce, including women, minorities and the disabled. The City will not tolerate any form of discrimination or harassment and endeavors to maintain a tolerant and respectful work environment free of hostility or unwelcome behavior.

The City is committed to providing citizens and employees equal access to programs and services and fair and equal opportunities for employment, and will take affirmative action steps when necessary to assure such equal access and employment opportunities.

The City will not discriminate against any person on the basis of race, religion, color, sex, sexual orientation, national origin, marital status, age, mental or physical disability, veteran's status or other protected status in accordance with applicable laws, unless based on a bona fide and lawful occupational or other qualification.

The City will state that it is an Equal Opportunity Employer on its website and in all employment announcements.

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 9a</b>	<b>Topic:</b> Ordinance 1724
<b>Prepared By:</b> Jason Locke, Com Dev Director	<b>Meeting Date:</b> June 7, 2010	<b>Attachments:</b> Yes <input type="checkbox"/> No
<b>Approved By:</b> Jerry Wyatt		

**RECOMMENDED ACTION:**

Move Ordinance 1724 to a second reading

**BACKGROUND:**

When the City adopted the new Development Code, the section dealing with street tree removal was inadvertently left out. This was an oversight due to the fact that all the requirements related to street tree care, pruning, etc was actually located in the Municipal Code, so there was a discontinuity. The proposed new Municipal Code section sets the process and standards for street tree removal and replacement, as well as incorporating the current stump removal requirement. The Development Code will continue to contain the requirements for new street trees. The Administration Subcommittee has reviewed and recommended the proposed changes to Dallas Municipal Code Chapter 3.740, relating to removal of street trees in the public right-of-way.

**FISCAL IMPACT:**

A miscellaneous fee schedule will be presented for adoption at the next Council meeting. The fee will be set to recover the cost of processing the application.

**ATTACHMENT**

- a) Redline version of 3.740
- b) Ordinance 1724

3.740. Removal of ~~street stump~~ trees.

(1) No person shall remove or cause to be removed a street tree without first obtaining a permit and complying with the requirements set forth in this section.

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(2) A person may remove a street tree only if the street tree is diseased or, by reason of its location or condition, constitutes a nuisance or hazard to public safety.

(3) A person wishing to remove a street tree shall submit an application for a tree removal permit with the Community Development Director. The application shall be accompanied by a fee as the council may establish by resolution, and shall include the following:

Comment [.1]: Or did you want to involve the Tree Board in this process? We could do that.

(a) Facts that establish the reason for the removal of the tree, including the location, size, species and health of the tree;

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(b) Evidence satisfactory to the Director that the applicant has the right to remove the tree;

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(c) The name of the person or entity that will remove the tree and the person's or entity's qualifications. The tree may be removed only by the person or entity identified on the application.

(4) An application under this section shall be accompanied by a report of an arborist that supports the application, unless this requirement is excused in the case of an emergency or for other good cause by the Director.

(5) The person removing the tree shall obtain a good and sufficient bond or policy of general liability insurance insuring the City, its directors, officers, employees and agents, against liability for property damage, personal injury and death arising from or related to the removal of the tree, in such amount as the Director deems sufficient, and shall agree to defend, indemnify and hold the City, its directors, officers, employees and agents harmless from all claims, liabilities, demands arising from or relating to the removal of the tree.

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(6) All stumps of street ~~and park~~ trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

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(7) The Director may, as a condition of a permit under this section, require the applicant to replant a tree to replace the tree removed, in accordance with Dallas Development Code 3.2.040. If the Director determines that it would be unsafe, impractical or inappropriate to replant a tree on the same property as the property from which the tree was removed, the Director may require the applicant to pay the cost of replanting a tree to replace the tree removed on other public property. Such cost shall include the cost of the tree and a reasonable charge for labor, materials and equipment used to plant the tree.

(8) In addition to the penalty provided in Section 3.820, a person who removes a street tree without first obtaining a permit under this Section shall be subject to prosecution for a criminal offense under this code or under state law.

ORDINANCE NO. 1724

An Ordinance amending provisions of the Dallas City Code Sections 3.740, relating to removal of street trees; and repealing prior conflicting ordinances.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Dallas City Code Section 3.740 is hereby amended to read as follows:

3.740. Removal of street trees.

(1) No person shall remove or cause to be removed a street tree without first obtaining a permit and complying with the requirements set forth in this section.

(2) A person may remove a street tree only if the street tree is diseased or, by reason of its location or condition, constitutes a nuisance or hazard to public safety.

(3) A person wishing to remove a street tree shall submit an application for a tree removal permit with the Community Development Director. The application shall be accompanied by a fee as the council may establish by resolution, and shall include the following:

(a) Facts that establish the reason for the removal of the tree, including the location, size, species and health of the tree;

(b) Evidence satisfactory to the Director that the applicant has the right to remove the tree;

(c) The name of the person or entity that will remove the tree and the person's or entity's qualifications. The tree may be removed only by the person or entity identified on the application.

(4) An application under this section shall be accompanied by a report of an arborist that supports the application, unless this requirement is excused in the case of an emergency or for other good cause by the Director.

(5) The person removing the tree shall obtain a good and sufficient bond or policy of general liability insurance insuring the City, its directors, officers, employees and agents, against liability for property damage, personal injury and death arising from or related to the removal of the tree, in such amount as the Director deems sufficient, and shall agree to defend, indemnify and hold the City, its directors, officers, employees and agents harmless from all claims, liabilities, demands arising from or relating to the removal of the tree.

(6) All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(7) The Director may, as a condition of a permit under this section, require the applicant to replant a tree to replace the tree removed, in accordance with Dallas Development Code 3.2.040. If the Director determines that it would be unsafe, impractical or inappropriate to replant a tree on the same property as the property from which the tree was removed, the Director may require the applicant to pay the cost of replanting a tree to replace the tree removed on other public property. Such cost shall include the cost of the tree and a reasonable charge for labor, materials and equipment used to plant the tree.

(8) In addition to the penalty provided in Section 3.820, a person who removes a street tree without first obtaining a permit under this Section shall be subject to prosecution for a criminal offense under this code or under state law.

Section 5. All prior and conflicting ordinances are hereby repealed.

Read for the first time: June 7, 2010  
Read for the second time: June 21, 2010  
Adopted by the City Council: June 21, 2010  
Approved by the Mayor: June 21, 2010

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER

Ordinance -- Page 2

# DALLAS CITY COUNCIL REPORT

**TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL**

<i>City of Dallas</i>	<b>Agenda Item No. 9b</b>	<b>Topic:</b> Ordinance 1725
<b>Prepared By:</b> Jason Locke, Com Dev Director	<b>Meeting Date:</b> June 7, 2010	<b>Attachments:</b> Yes <input type="checkbox"/> No
<b>Approved By:</b> Jerry Wyatt		

## **RECOMMENDED ACTION:**

Move Ordinance 1725 to a second reading

## **BACKGROUND:**

The Administrative Subcommittee has reviewed and recommended the proposed changes to Dallas Municipal Code Chapter 7, which deals with licensing of certain businesses/activities in the city. There were a number of outdated activities referenced in the chapter that are being modified or eliminated altogether because they either fall under State requirements or are no longer necessary. In addition, the itinerant merchant section has been expanded to include a “master license” for larger or ongoing events, and the Solicitation section has been amended to clarify some of its provisions pertaining to registration.

## **FISCAL IMPACT:**

A miscellaneous fee schedule will be presented for adoption at the next Council meeting. The fees will be set to recover the costs of processing the applications.

## **ATTACHMENTS:**

- a) Redline version of Chapter 7
- b) Ordinance 1725

## GENERAL REGULATORY LICENSE PROVISIONS

### 7.000 Applicability and Definitions.

(1) The provisions of sections [7.005](#) to [7.080-075](#) apply to this chapter when not in conflict with specific provisions contained in other sections of this chapter.

(2) As used in sections [7.005](#) to 7.080, the term "license" also means "permit."

### 7.005 Purpose.

(1) The regulatory license provisions of sections [7.000](#) to [7.080-075](#) are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.

(2) Obtaining a regulatory license [under sections 7.000 to 7.860](#) shall not exempt the licensee from other [applicable](#) requirements.

### 7.010 Licenses Required.

No person shall engage in an activity or operate a device regulated under sections [7.100](#) to [7.860](#) without first obtaining a license from the city as provided in those sections or without complying with conditions imposed by a license obtained under those sections. [If the person engaged in the activity or operating the device within the city is an employee, partner, member, or agent of a partnership, joint venture, limited liability company, corporation or other form of business entity, both the person engaged in the activity or operating the device and the entity must apply for a license and be licensed under sections 7.100 to 7.860, and the provisions of sections 7.000 to 7.860 shall apply to both the person and the entity.](#)

### 7.015 License Duration; [Proration of License Fees](#).

Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following December 31, and shall be renewable annually for a term of one year, beginning on January 1. [An annual license fee provided in sections 7.100 to 7.850 shall be prorated for any partial year for which the license is issued and in effect.](#)

### 7.020 License Renewal and Late Penalty.

(1) The license application for renewal of a license shall be made prior to the license expiration date. The effective date of a renewed license shall be January 1 if the application for renewal is made prior to the current expiration date.

(2) If a licensee fails to apply for and pay the required fee within 30 days after the expiration date of the license, and continues to operate without a valid license, a penalty fee of 25% [per cent](#) of the license fee, in addition to the license renewal fee, must be paid prior to issuance of the license.

### 7.025 Review of Renewal.

If the city has received complaints about the licensed activity or device, the application for renewal of the license may be reviewed under section [7.035](#).

### 7.030 Application Requirements; [Background Check](#).

(1) Application for all licenses required by sections [7.100](#) to [7.860](#) shall be made on forms prescribed by the city manager. ~~Application shall be made at least 30 days prior to the date the license is requested to be effective.~~ The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity, or device to be licensed and shall provide for other information as required by specific license provisions of this code or as necessary for review under section [7.035](#).

(2) ~~If the application is for a master license under section 7.850(2), in addition to all other required information, the application shall specify the date or dates for which the license is sought, whether the license is sought for a single or recurring activity, and the names, addresses and other identifying and contact information required by the city manager for all persons and entities intended to be covered by the master license.~~

(3) The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications by the city, ~~and consent to a criminal background check of the applicant under city ordinance. If the applicant is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant shall consent to a criminal background check on the entity and all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to conduct the licensed activity or operate the licensed device within the city of Dallas under the license.~~

#### **7.035 Application Review.**

Each application shall be referred to the person, department, or agency designated by this code or the city manager to review the application.

#### **7.040 Information From Application.**

A person, agency, or department designated to review a license application may require the applicant to supply information necessary to determine under section [7.035](#) the applicant's qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended, revoked, or denied.

#### **7.045 Criteria for Grant, Renewal, or Denial.**

(1) Approval or denial of the application shall be based on consideration of all available evidence indicating whether the applicant meets the requirements of this code for the license that the applicant seeks.

(2) The license shall not be granted if:

(a) The activity or device to be licensed would not comply with this code, city ordinances, or state or federal law; ~~or~~

(b) The applicant ~~or, if the applicant is a partnership, joint venture, limited liability company, corporation or other business entity, any of partners, joint venturers, managers, members, officers or directors, as well as any employee or agent designated to conduct the licensed activity or operate the licensed device within the city of Dallas under the license,~~ has a criminal conviction relating to the subject matter of the license; ~~or~~

(c) The applicant has had a license for the same activity revoked within the previous 12-month period, unless the approval of the license is authorized by the city council upon a determination that the reason for the previous revocation is not likely to recur; ~~or~~

(d) The licensed activity or device would endanger property or the public health or safety;  
or

(e) Any false or misleading information is supplied in the application or any information requested is omitted from the application.

#### **7.050 Issuance or Denial.**

For regulatory license applications required to be made to the manager, the following provisions apply:

(1) After receipt of reports from all persons, departments and agencies designated to review an application, the city manager shall determine whether the applicant qualifies for issuance or renewal of a license pursuant to section [7.045](#).

(2) If the applicant is qualified, the manager shall issue or renew the license.

(3) If, on the basis of the application review under section [7.035](#), the manager determines that the application does not qualify for issuance or renewal of the license applied for, the manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the appeal provisions of section [7.065](#).

#### **7.055 Revocation of License.**

The city manager, upon determining that a licensed activity, establishment or device is in violation of this code, city ordinances, or state or federal law, shall notify the licensee in writing that the license is to be revoked. The notice shall be given at least 30 days before the revocation unless the period for which the license was granted will expire in less than 30 days, in which case notice shall be given at least seven days before the revocation. If the violation ends within 30 days period provided in the notice of revocation, the manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the appeal provisions of section [7.065](#).

#### **7.060 Suspension of License.**

Upon determining that a licensed activity or device presents an immediate danger to persons or property, the city manager may suspend the license for the activity or device at once. The suspension shall take effect immediately upon notice of the suspension's being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the appeal provisions of section [7.065](#). The manager may continue the suspension until a determination on appeal regarding the suspension is made under section [7.065](#).

#### **7.065 Appeal.**

(1) An applicant whose application for a license has been denied or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within 30 days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the council. The appeal shall state:

(a) The name and address of the appellant;

- (b) The nature of the determination being appealed;
- (c) The reason the determination is incorrect; and
- (d) What the correct determination of the appeal should be.

(2) An appellant who fails to file such a statement within the time permitted waives objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.

(3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence used by courts of law do not apply, and the decision of the council after the hearing is final.

(4) The City Council may, by resolution, establish a fee for an appeal under this section, which must be paid when the appeal is filed.

#### **7.070 Posting of License.**

(1) Except as provided in subsection (2), the license or permit shall be posted in a conspicuous place upon the business premises, available for inspection by the public, employees, and prospective employees of the business.

(2) If the licensee has no office, business premises, or other established place of business within the city, the license shall be at all times in the possession of an employee or the representative of the business who is present within the city while business is being transacted by an employee or representative within the city.

#### **7.075 Transfer or Assignment of License.**

Except as may be otherwise provided by sections [7.100](#) to [7.860](#), no person shall transfer or assign a license or a permit issued under this chapter.

### **MISCELLANEOUS LICENSES**

#### **7.100 Tent Shows.**

Every tent show or exhibition shall pay a license fee of \$15 per day established by the City Council. In addition, any tent show or exhibition desiring selling privileges shall pay a daily license fee of \$5 or a weekly license fee of \$40 established by resolution of the City Council. ~~However, no license shall be required of a tent show, exhibition, or entertainment conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.~~

#### **7.105 Carnivals.**

Every amusement enterprise consisting of sideshows, vaudeville, games of chance, mechanical rides, and confection stands, popularly known as a "carnival," shall pay a license fee of \$50 per day established by resolution of the City Council. ~~However, no license shall be~~

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~~required of a carnival conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.~~

#### ~~7.110 Theaters.~~

~~—Every person operating a vaudeville, motion picture, or drive-in theater shall pay an annual license fee of \$25. However, no license shall be required of a vaudeville, motion picture, or drive-in theater conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.~~

#### ~~7.115 Miscellaneous Concessions.~~

~~—Every person operating a ball and bucket game, ball throwing game, cane rack, cat rack, country store, doll rack, spot-the-spot game, striking machine, or other similar concession, whether operating alone or in connection with another exhibition, shall pay a daily license fee of \$5 for each game so operated. However, no license shall be required of any such game conducted or sponsored by an educational, religious, or civic organization when not less than two-thirds of the net proceeds after expenses are deducted are retained by the educational, religious, or civic organization.~~

#### ~~7.120 Occult Arts.~~

~~—Persons engaging in the business of telling fortunes or the practice of necromancy, conjuration, spiritualism, mesmerism, or any of the occult arts or sciences shall pay a license fee of \$15 per day or \$50 for six months.~~

#### **7.125 Restroom Facilities.**

All places of public amusement and entertainment shall have access to restroom facilities for male and female participants and spectators near the premises where the amusement or entertainment is conducted.

#### ~~7.130 Fee Amendments.~~

~~—The license fees required by sections [7.100](#) to [7.120](#) may be amended by resolution of the council.~~

#### **7.135 Penalties.**

Violation of provision of sections [7.100](#) to [7.125](#) is a civil infraction.

### **BINGO**

#### ~~7.140 Definitions.~~

~~—For purposes of sections [7.140](#) to [7.146](#), the following mean:~~

~~—Bingo. A game played with cards bearing lines of numbers in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence, or pattern.~~

~~—Charitable, fraternal, or religious organization. Any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purposes, and who is also exempt from payment of federal income taxes because of its charitable, fraternal, or religious purposes. The fact that contributions to an organization profiting from the contest do not qualify for charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal, or religious organization.~~

~~—Social game. A game between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.~~

#### **7.142 Bingo Permitted.**

~~—No person, except a charitable, fraternal, or religious organization, shall play or conduct a bingo game as a social game in the city without obtaining a license from the city manager.~~

#### **7.144 License Fee.**

~~—The license fee for playing or conducting a bingo game shall be \$65 per year. The license shall be issued on a calendaryear basis and, if paid after January 1, shall be prorated so that the amount paid shall be in the same proportion to the annual fee as the proportion of the year from the date of its issuance bears to the total calendar year.~~

#### **7.146 Penalty.**

~~—A person who conducts or permits the conducting of a bingo game as a social game without first having obtained a license as required by section 7.142 shall be guilty of a Class C misdemeanor.~~

### **DANCE HALLS**

#### **7.150 Definitions.**

~~—For purposes of sections 7.150 to 7.175, "dance hall" means any hall, room, pavilion, or place in which a dance is held, and excludes private residences, premises licensed by the Oregon Liquor Control Commission, public school facilities, and regular events held by separate agreements with the city.~~

#### **7.155 License Required.**

~~—(1) No person shall operate a dance hall without filing an application form and obtaining a license from the city manager.~~

~~—(2) The application form shall include information prescribed by the city manager.~~

**7.160 License Fees.**

- ~~—(1) License fees shall be \$5 per day, \$25 per month, or \$100 per year.~~
- ~~—(2) No license fees are required for dances for which no admission is charged.~~

**7.165 License Suspension.**

~~—Licenses may be suspended if the license holder permits:~~

- ~~—(1) An intoxicated person to remain on the premises; or~~
- ~~—(2) Disorderly conduct by persons on the premises.~~
- ~~—(3) Continuing violations of law.~~

**7.170 Summary License Suspension.**

~~—A dance hall license may be suspended, without hearing or appeal, by a police officer or fire marshal who is present at the dance hall if, in the opinion of the police officer or fire marshal, one of the prohibitions contained in section 7.165 is being violated and the violation poses an immediate threat or hazard to public peace, health, or safety.~~

**7.175 Penalty.**

~~—Violation of a provision of sections 7.150 to 7.170 is a civil infraction.~~

**AMUSEMENT PLACES AND GAMES**

**7.200 Definitions.**

For purposes of sections [7.200](#) to [7.230](#), the following mean:

Billiard or pool room. A place open to the general public in which a pool or billiard table is maintained and a charge is made for the use of the table.

Bowling alley. A unit in a building or place where a single game is played at one time by rolling balls by hand at any one or more objects.

Cardroom. Any place open to the public in which social games of cards are played.

Regulated game machine. A game machine that requires the insertion of coin, currency, slug, token, or similar object to activate the game, such as a pinball machine, video poker machine licensed by the State of Oregon, pool table, or shuffleboard, and which is located in a commercial establishment.

Shooting gallery. An enclosure in which guns are discharged at an object to display skill or marksmanship.

Skating rink. A place or premises maintained and open to the public for the purpose of roller skating or ice skating and a charge is made for such privilege.

Social game. A game between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the game.

[Section 7.200 amended by Ordinance No. 1620, passed November 19, 2001.]

#### **7.205 License Required.**

(1) No person shall maintain or operate a cardroom, billiard room, poolroom, bowling alley, skating rink, or shooting gallery in the city without first obtaining a license from the city manager.

(2) No person shall possess six or more regulated game machines for commercial use in the city without first obtaining a license from the city manager.

(3) No person shall furnish a regulated game machine to a commercial establishment and retain any ownership interest or right to receive proceeds therefrom without first obtaining a license from the city manager.

[Section 7.205 amended by Ordinance No. 1620, passed November 19, 2001.]

#### **7.210 Criteria for Grant or Denial of Application.**

In addition to conforming to the requirements listed in section [7.045](#), the license required under section 7.205 shall not be granted if:

(1) Any person financially interested in the business has been previously convicted of a felony within the last 10 years;

(2) Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;

(3) Any person financially interested in the business has been convicted of any crimes involving gambling within the last five years or any person who has any financial interest in the business has forfeited bail for any crime involving gambling within the last five years;

(4) Any person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in state law when such gambling device has been ordered destroyed within the last five years;

(5) Any person financially interested in the business has had a license in his/her name which has been revoked or suspended three or more times by the Oregon Liquor Control Commission, the last of which was in the last five years;

#### **7.215 License Fees.**

~~(1) The license fee under DCC 7.205(1) is \$25 per year.~~

~~(2) The license fee under DCC 7.205(2) is \$25 per year.~~

~~(3) The license fee under DCC 7.205(3) is \$25 per year.~~

~~—(4)— Future license fees may be set by council resolution. The license fees required under section 7.205 shall be established by resolution of the City Council.~~

[Section 7.215 amended by Ordinance No. 1620, passed November 19, 2001.]

#### **7.220 Gambling Prohibited.**

No person operating or assisting in the operation of any business described in section [7.200](#) where a regulated game machines ~~are~~ <sup>is</sup> available to the public shall permit a person to gamble or to play any game of chance upon the premises for a monetary benefit, except in regulated game machines licensed by the State of Oregon for gambling.

[Section 7.220 amended by Ordinance No. 1620, passed November 19, 2001.]

#### **7.225 Condition of Premises.**

All places of business required to be licensed by section [7.205](#) shall at all times be kept in a clean and sanitary condition and shall be open at all reasonable times to inspection by the city for violations of this or any other city code provision.

[Section 7.225 amended by Ordinance No. 1620, passed November 19, 2001.]

#### **7.230 Penalties.**

Violation of a provision of sections [7.200](#) to [7.225](#) is a civil infraction.

### **SECONDHAND STORES AND PAWN SHOPS**

#### **~~7.350 License Required.~~**

~~—No person shall begin or continue as a substantial part of their business the collection, purchase, exchange, and sale of used articles, either as a "secondhand store" or "pawn shop" without having first obtained a license from the city manager.~~

#### **~~7.355 Exceptions.~~**

~~—Sections [7.350](#) to [7.385](#) shall not apply to persons dealing in new or used automobiles, new and used furniture, new and used farm implements and machinery, and similar businesses, but shall apply to only those places that devote a substantial portion of their business to buying, selling, exchanging, and lending used articles.~~

#### **~~7.360 Records Required.~~**

~~—The chief of police shall prepare forms for record keeping by licensed merchants. The forms shall include information necessary to the identification of goods purchased or acquired by the merchant. Each licensed merchant shall maintain a record of all purchases at the time purchased upon the forms provided. The records shall be available at all reasonable times for inspection by police officers.~~

#### **~~7.365 Segregation of Inventory.~~**

~~—All used articles purchased or acquired shall be segregated in a manner that permits them to be identified from the record and they shall be segregated from the remainder of the inventory for a period of seven days before resale. A police officer may require segregation for an additional seven days.~~

#### ~~7.370 Limitation on Sales.~~

~~—No purchase or acquisition shall be made from any person under the age of 18 years of age unless accompanied by a parent or guardian, or from any person who is incapable of dealing intelligently or who is under the influence of narcotic drugs or intoxicating liquor.~~

#### ~~7.375 License Application.~~

~~—(1) An application to operate a secondhand store or pawn shop shall be filed with the city manager.~~

~~—(2) The application shall be in a form prescribed by the city manager.~~

~~—(3) The license fee shall be \$50 annually.~~

~~—(4) Future fees may be increased by resolution of the council.~~

#### ~~7.380 Criteria for Grant or Denial of Application.~~

~~—In addition to conforming to the requirements listed in section 7.045, the license shall not be granted if:~~

~~—(1) Any person financially interested in the business has been previously convicted of a felony within the last 10 years;~~

~~—(2) Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;~~

#### ~~7.385 Penalty.~~

~~—Violation of a provision of sections 7.350 to 7.380 is a Class C misdemeanor.~~

### **VENDORS ON PUBLIC RIGHT-OF-WAY**

#### **7.400 Permit Required.**

No person shall conduct business on any ~~city public~~public right-of-way without first obtaining a permit from the city manager.

[Section 7.400 amended by Ordinance No. 1518, passed May 6, 1996.]

#### **7.405 Permit Fee.**

Each application for a permit to conduct business on a public right-of-way shall be accompanied by a fee established by council resolution.

[Section 7.405 amended by Ordinance No. 1518, passed May 6, 1996.]

#### **7.410 Application and Fee.**

(1) Application for a permit to conduct business on a public right-of-way shall be made on a form prescribed by the city manager and pay the fee established by resolution of the City Council.

[Section 7.410(1) amended by Ordinance No. 1518, passed May 6, 1996.]

(2) A separate application shall be required for each mobile container or device to be used for transportation or display.

#### **7.411 Insurance.**

The city manager may require the vendor to obtain and maintain a policy of liability insurance from an insurance company licensed to issue insurance in the State of Oregon, with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and to provide the city with a certificate of such insurance. Said insurance coverage, if required, shall be maintained for so long as the permit remains in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city.

[Section 7.411 added by Ordinance No. 1603, passed January 2, 2001.]

#### **7.415 Location Review.**

(1) Upon receipt of an application for a permit, the manager shall review each location applied for to determine whether the location is within a commercial area and the use of the location for public right-of-way vending is compatible with the public interest in use of street and sidewalk areas as public rights-of-way.

(2) In making the determination, the manager may consider the width of the public right-of-way, the proximity and location of existing street furniture, including but not limited to, sign posts, lamp posts, parking meters, bus shelters, benches, phone booths, and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands, to determine whether the proposed use would result in pedestrian or street congestion.

(3) If the manager determines the proposed location is unsuitable, the city manager shall so inform the applicant who may appeal the decision to the council in the same manner as an appeal filed under section 7.065, upon the filing of an appeal fee established by resolution of the City Council.

[Section 7.415 amended by Ordinance No. 1518, passed May 6, 1996.]

#### **7.420 Form and Conditions of Permit.**

Permits issued shall be in a form prescribed by the manager. Permits shall contain the following conditions:

(1) The permit is valid only when used at the location(s) designated on the permit.

(2) The permit as it applies to a given location may be suspended by the council for a period up to ten days when council action providing for a "community event" requires the suspension.

#### **7.425 Restrictions.**

(1) A person conducting business on a public right-of-way must display prominently the permit issued by the city manager.

~~[Section 7.425(1) amended by Ordinance No. 1518, passed May 6, 1996.]~~

(2) No person shall conduct business at a location other than that designated on the permit.

(3) No permittee shall make any loud or unreasonable noise of any kind for the purpose of advertising or attracting attention to ~~his~~ the permittee's wares.

(4) No permittee shall conduct business in violation of the council action providing for a community event.

#### **7.430 Penalty.**

Violation of a provision of sections [7.400](#) to [7.425](#) is a civil infraction.

#### **GARAGE SALES**

#### **7.500 Definition.**

For purposes of sections [7.500](#) to [7.545](#), "garage sale" means the public sale or offering for sale of new or used goods within the city by any individual or group of individuals from private or public property, including but not limited to garages, porches, carports and yards, when:

(1) The individual or group of individuals is not regularly engaged in the business of selling such goods; or

(2) When the property on which the sale is conducted is not regularly used for business purposes or is not in a zone permitting commercial use.

#### **7.505 Exemption.**

The following are exempt from the provisions of sections [7.500](#) to [7.545](#):

(1) Offering for sale one item by public display with a sign indicating the item is for sale, and the sale of more than one individual item not offered for sale by public display or by signs concerning a sale or place of sale; and

(2) Sales commonly referred to as "rummage sales," conducted by members of fraternal, civic, patriotic, religious, service, charitable, educational, or eleemosynary organizations with a chapter, lodge, post, congregation, or other unit existing within the city.

#### **7.510 Permit Required.**

No individual or group of individuals shall hold a garage sale without first obtaining a permit.

#### **7.515 Application.**

In addition to the provisions of sections [7.000](#) to 7.080, the application shall include:

- (1) A description of the place from which the sale is to be held.
- (2) The dates and hours of the day during which the sale is to be conducted.
- (3) Whether the person will be selling any upholstered furniture or bedding.
- (4) Whether the owner of such goods is to pay any commission for the sale.
- (5) Whether the owner or lessee in possession of the premises from which the sale is to be conducted is to receive any compensation for the use of the premises.
- (6) Whether the individual or group of individuals conducting the sale have conducted a sale within the past 12 months.
- (7) Whether other garage sales have been held upon the premises upon which the sale is to be held during the calendar year in which the proposed sale is to be held.

**7.520 Permit Issuance.**

The city manager shall issue a permit for the sale if the city manager finds that:

- (1) The application is properly completed; and
- (2) No commission is paid by the individual or individuals owing the goods to be sold and that no compensation is received by the owner or lessee of the premises from which the sale is to be conducted; and
- (3) The individual or group of individuals conducting the sale have not conducted a like sale previously during the past 12 months; and
- (4) No other such sale has been held upon the premises upon which the garage sale is to be held during that portion of the past 12 months in which the individual or individuals then occupying the premises have occupied the premises.
- (5) Notwithstanding the provisions of this section, the city manager may issue a permit for a second sale within a 12-month period to the same person or to be held on the same premises.

**7.525 Duration of Permit.**

The permit issued by the city manager shall be valid for a period not to exceed three consecutive days and shall permit the sale only between the hours of 8 a.m. and 9 p.m.

**7.530 Permit Fee.**

No fee shall be required if the application is made prior to the commencement of the sale. If the application is made after the commencement of the sale, a fee of \$15 shall be charged.

[Section 7.530 amended by Ordinance No. 1561, passed August 3, 1998.]

**7.535 Display of Permit.**

No garage sale shall be held without a permit being prominently displayed so that it can be seen readily from the street.

#### **7.540 Signs.**

(1) Only one sign shall be posted upon the premises on which the garage sale is to be held.

(2) One off premises sign for the purpose of directing people to the garage sale shall also be permitted but only a sign issued by the city shall be allowed. The city shall have available a reasonable supply of garage sale signs for use by individuals at no cost. The city may secure a deposit to cover the cost of replacing the sign in the event it is damaged or lost.

(3) Signs shall not be placed in the public right-of-way and shall be placed upon private property only with the consent of the property owner. Signs shall not be placed earlier than one hour before the garage sale starts and shall be removed by no later than one hour after the conclusion of the garage sale.

[Section 7.540 added by Ordinance No. 1462, passed June 1, 1992.]

#### **7.545 Penalty.**

Violation of a provision of sections [7.500](#) to [7.540](#) is a civil infraction.

### **SOLICITATION**

#### **7.600 Policy and Purpose.**

The council finds it necessary and desirable to regulate solicitation in order to provide an effective opportunity for the occupants of residential property to protect themselves from the unwanted disruption of the peaceful and quiet enjoyment of their property and right of privacy that is caused by solicitors, to protect the rights to free speech guaranteed by the Oregon and Federal Constitutions for lawful solicitors, and to provide a means by which those solicitors who choose to intrude upon and disrupt an occupant's quiet enjoyment of property can be held accountable for such violations. The council has also been advised that, based upon actual experiences in Dallas and in the opinion of crime prevention specialists nationwide, there is a direct connection between residential burglaries and unscrupulous solicitors. The creation of a registration requirement will enable city officials and citizens of the city to become informed concerning the individuals and organizations who choose to solicit in the city. Sections [7.600](#) to [7.640](#) also provide a mechanism for discouraging those solicitors who avoid registration and provide a mechanism to identify and discourage those who would use solicitation as a front for criminal activity.

#### **7.605 Definition.**

For purposes of sections [7.600](#) to [7.640](#), the terms "solicit" and "solicitation" mean the entry onto real property ~~used for residential purposes~~ by a person for the purpose of taking orders for goods, wares or merchandise or any article or thing of value for present or future delivery or for services to then be performed or to be performed in the future or for the making, manufacture or repair of any article or thing whatsoever for present or future delivery~~of verbally communicating with an occupant of the property,~~ without the actual consent of the occupant to do so; provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise or services to merchants of this city, nor to newspaper vendors or minors selling goods, wares, merchandise or services on behalf of any public or private school or any nonprofit charitable organization that is exempt from income

taxes under Section 501(c)(3) of the Internal Revenue Code of the United States, as it may be amended from time to time.

#### **7.610 Prohibited Acts and Penalties.**

(1) No person shall:

(a) Solicit before 9 a.m. or after 9 p.m. when the local time is daylight savings time or after 8 p.m. when the local time is standard time.

(b) Solicit without first having obtained a registration certificate if required to do so by sections [7.600](#) to [7.640](#).

(c) Violate the terms of a registration certificate issued under sections [7.600](#) to [7.640](#).

(d) Solicit after a registration certificate has been revoked.

(e) Allow, suffer, or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this section.

(f) Provide false or fraudulent information on a registration statement.

(g) Allow, suffer, or permit any person to solicit on their behalf after a registration certificate has been revoked.

(2) Violation of subsections (1)(a), (1)(c), (1)(e), and (1)(f) of this section is punishable by a fine of not more than \$500.

(3) Violation of subsection (1)(b) of this section is punishable by a fine of not more than \$500 unless the violation is intentional, in which case it is punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

(4) Violation of subsections (1)(d) and (1)(g) of this section is punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

#### **7.615 Consent to Enter Onto Real Property, Exemptions.**

(1) It shall be an affirmative defense to an alleged violation of section [7.610](#) (1)(a) that the person charged with the violation had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter the real property may be implied from the circumstances of each instance, the relationship of the parties, and actual or implied contractual relationships.

(2) Nothing in this section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.

(3) Officers, employees, or agents of a governmental entity, while performing activities within the scope of their office, employment, or agency are exempt from the requirements of sections [7.600](#) to [7.640](#).

(4) No person may be charged with a violation of sections [7.600](#) to [7.640](#) in connection with an act committed between 4 p.m. and 10 p.m. on October 31.

## 7.620 Registration Statement.

(1) All persons intending to solicit at five or more dwelling units in the city during any eight-hour period shall pay the registration fee established by resolution of the City Council and file with the city manager a registration statement, on forms provided by the city manager, containing the following information:

(a) The name of the person registering and desiring to solicit.

(b) Whether the person registering is a natural person, partnership, corporation, limited liability company or association, and

(i) If a natural person, the business or residence address and telephone number of the person.

(ii) If a partnership, the names of all partners and the principal business address and telephone number of each partner.

(iii) If a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the Willamette Valley area office of such corporation, and the registered agent of the corporation and the names of all officers and directors or trustees of the corporation, and, if a foreign corporation, the place of incorporation.

(iv) If an association or limited liability company, the registration statement shall show the association or limited liability company's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association or limited liability company, unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association or managers of the limited liability company. If the association or limited liability company is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.

(c) A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation of the intended purpose of the solicitation.

(d) The names, mailing address, and telephone number of all individuals who will be in direct charge or control of the solicitation and the names and addresses of all persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the city or the public concerning the solicitation activities.

(e) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.

(f) A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.

(g) The names of any other cities in which the person registering has solicited within the past five years, but if the person registering has solicited in more than five other cities, the person registering may list the five cities located closest to Dallas.

(h) A statement that if a certificate of registration is granted, the certificate will not be used as or represented to be an endorsement by the city or any of its officers or employees.

(i) The names of any officer, director, trustee, partner, corporation, or any current agent or employee or any other person actually engaging in the solicitation who has signed a consent decree or order in the last five years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five years, and the nature of the offense or consent decree or order, the state where the conviction or consent decree or order occurred, and the year of the conviction or consent decree or order.

(j) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.

(k) The registration statement must be signed by the applicant, if the person registering is an individual; if the person registering is a partnership, by a partner; if the person registering is a corporation or an association, by an officer. The individual signing the registration statement shall sign the statement and swear or affirm before an Oregon notary that he has carefully read the registration statement and that all the information contained therein is true and correct.

(2) Submission of a registration statement under this section shall constitute the registrant's consent to conduct an investigation of the registrant's qualifications by the city, and consent to a criminal background check of the registrant under city ordinance. If the registrant is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant shall consent to a criminal background check on the entity and all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to engage in solicitation within the city of Dallas under the registration.

~~(3)~~ The registration statement and information submitted with the registration statement are public records available for public inspection during normal city business hours.

#### **7.625 Issuance of Certificate of Registration.**

(1) After a review of the registration statement to determine its compliance with section [7.620](#), and within ten working days of the receipt of the registration statement, the city manager shall either issue a certificate of registration in the form provided by section [7.635](#), or notify the person registering that the registration statement does not comply with the requirements of section [7.620](#). The notice shall specifically point out what required information or explanation has not been furnished before a certificate of registration can be issued.

(2) If the person registering is engaged in an activity for which a business license is required by the city, proof of a valid business license shall be furnished prior to the issuance of the certificate.

#### **7.630 Revocation of Registration.**

(1) A certificate of registration shall be revoked by the city manager if a registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of two violations of section [7.610](#) occurring within any 30 calendar day period in connection with or on behalf of the solicitation of the registered person. A

certified copy of the municipal court record of plea or conviction is conclusive proof that a violation has occurred.

(2) The period of revocation shall be for six months, during which time the person may not receive a certificate of registration.

(3) Within five working days of receipt of notification that a registered person has been convicted or plead guilty or no contest to the second violation, the city manager shall notify the person designated in the registration statement to receive notice of the action to revoke, in writing, five days prior to the effective date of the revocation.

(4) The person may appeal the manager's decision to the council by filing a notice of appeal with the city manager within 10 days of the effective date of the revocation. During the pendency of the appeal, the order to revoke is stayed.

#### **7.635 Form of Certificate of Registration, Term.**

(1) The city manager shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the city of Dallas or any of its officers or employees." Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the registrant.

(2) Every certificate of registration issued by the city manager shall contain a termination date upon which the certificate shall expire. The termination date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.

(3) The certificate of registration shall contain a list of the acts prohibited by section [7.610](#).

#### **7.640 Evidentiary Matters.**

For the purposes of sections [7.610](#)(1)(e) and [7.610](#)(1)(g), if a person solicits on behalf of a person registered pursuant to sections [7.600](#) to [7.640](#), it is presumed that the person registered allowed, suffered, or permitted the solicitation.

#### **7.645 Exception.**

The provisions of sections [7.000](#) to 7.080 are not applicable to sections [7.600](#) to [7.640](#).

### **TAXICABS**

#### **7.700 Purpose.**

It is the purpose of sections [7.700](#) to [7.800](#) to require that those persons, firms, or corporations operating taxicabs in the city do so in a safe, fair, and efficient manner. In the accomplishment of this purpose, the council considers it necessary to impose some regulations on the operation of taxicabs in the city to insure that the public safety and convenience is promoted.

#### **7.705 Definitions.**

As used in sections [7.700](#) to [7.800](#), the following mean:

Driver. A person who operates a taxicab as an agent, employee, or otherwise, of the owner; as owner; or, under the direction of the owner.

Owner. The person licensed to conduct a taxicab business pursuant to sections [7.700](#) to [7.800](#).

Taxicab. A motor vehicle that is designed or constructed to accommodate and transport not less than three nor more than five passengers, exclusive of the driver, and which is used to transport persons for hire.

#### **7.710 License.**

No person shall engage in the taxicab business within the city without having first obtained a license from the city manager.

#### **7.715 Application, Information, Requirement.**

An application for a license to conduct a taxicab business within the city shall be filed with the city manager and shall be accompanied by a nonrefundable fee of \$100. The application shall contain or be accompanied by the following information and documentation:

- (1) The name, business address, residence address, and telephone number of the applicant;
- (2) Previous experience, if any, of the applicant in conducting a taxicab business;
- (3) The make, type, year of manufacture, and seating capacity of each vehicle the applicant intends to use in the taxicab business, together with proof of the safe operating condition of each such vehicle from a source acceptable to the chief of police;
- (4) A statement as to whether the applicant, its principals (if a partnership or firm) or its officers (if a corporation) have been convicted of a felony, misdemeanor, or offense constituting a violation of municipal ordinance, code provision, or state law (other than minor traffic and parking offenses); the charge of which convicted; and the punishment or penalty assessed;
- (5) A proposed schedule of charges for taxicab service; and
- (6) Such other information the council may consider necessary for the proper protection of the public.

#### **7.720 Action on Application.**

The city manager shall refer each application to the council for its approval or rejection. However, before submitting the application to the council, the manager shall direct the chief of police to investigate the applicant's background and the matters contained in the application form. The chief of police shall complete the investigation and make a report of his findings to the city manager within 60 days of the date he is requested to investigate.

#### **7.725 Licensing Fees.**

(1) If the council approves the application for a taxicab business license, the city manager shall issue a license to the applicant for a term of one year from its date of issue, after first collecting from the applicant a license fee as follows:

- (a) For the operation of one taxicab, \$50; and
- (b) For the operation of each additional taxicab, \$25.
- (c) Future fees may be determined by council resolution.

(2) The license shall be subject to renewal annually upon payment of the license fee. The license fee shall not be prorated for any fraction of a year, except that if a second taxicab is placed in operation by the licensee after the current license is issued and within 60 days of the expiration date, the \$25 license fee for the second taxicab shall entitle the licensee to operate the second taxicab for the balance of the current year and the next succeeding year.

#### **7.730 Transfer, Suspension, or Revocation of License.**

(1) No taxicab license may be sold, assigned, or otherwise transferred without the consent of the council.

(2) A taxicab license may be suspended or revoked by the council after a hearing at which the certificate holder is given an opportunity to appear if any one or more of the following conditions exist:

- (a) A false statement is made on an application.
- (b) The owner ceases to operate a taxicab for a period of 15 consecutive days without obtaining permission for the cessation of operation from the council.
- (c) The owner fails to operate the taxicab business in accordance with the provisions of sections [7.700](#) to [7.800](#).
- (d) The taxicabs are operated at a rate of fare other than that filed with the city manager.
- (e) The owner fails to pay the fees or payments required to be paid by him by the provisions of sections [7.700](#) to [7.800](#).
- (f) The licensee is convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law, other than minor traffic and parking offenses, relating to the operation of a vehicle.

(3) The license may be summarily revoked by the city manager when, in the city manager's opinion, the continued operation poses a risk of immediate threat or hazard to the public safety. The revocation may be appealed as provided in section [7.735](#).

#### **7.735 Hearing on Rejection.**

(1) If the application for a taxicab business license is rejected or a license is suspended or revoked, notice shall be given promptly to the applicant and the applicant shall be furnished with a statement of the reasons for the rejection, revocation, or suspension.

(2) The applicant may request a hearing before the council for the purpose of rebutting the council's reason for the rejection if a request for a reason is made by the applicant within 15 days after the date of the notice of rejection.

(3) If a hearing is held, the council may affirm its rejection of the application or may grant the application.

#### **7.740 Display of License.**

The current license or a photocopy of it shall be displayed in the interior of each taxicab in a place which is readily visible to each passenger.

#### **7.745 Insurance.**

(1) No taxicab license shall be issued until the applicant has filed with the city manager evidence that the applicant has obtained public liability insurance covering the operation of the applicant's taxicab or taxicabs with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and provided the city with a certificate of such insurance. Said insurance coverage shall be maintained for so long as the permit remains in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city, with limits of not less than \$200,000 for injuries sustained by one person, \$500,000 for injuries sustained by more than one person in a single accident, and \$50,000 for property damage, and that the city has been named as an additional insured on the policy.

(2) The applicant shall also file with the city manager evidence that the insurance carrier shall give the city not less than 30 days' notice of any change in the insurance coverage or of any cancellation of coverage.

#### **7.750 Approval of Drivers.**

(1) No person shall drive a taxicab in the city until the person has received a permit from the chief of police.

(2) The application for a permit shall contain the following information:

(a) The name, address, age, social security number, and Oregon motor vehicle operator's license number of the applicant.

(b) The number of motor vehicle accidents in which the applicant has been involved as a driver that resulted in injury to one or more persons, or property damage in excess of \$500.

(c) A statement as to whether the applicant has ever been convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law; the charge of which he was convicted; and the penalty or punishment assessed.

(d) The fingerprints of the applicant.

(3) The application shall be accompanied by an application fee of \$10.

(4) No permit shall be issued to a person below the age of 18 years.

(5) The chief of police shall review the application and issue or deny a driving permit within ten days after the filing of the application. If a permit is denied, the applicant may appeal to the council by giving notice to the chief of police within ten days after the date of denial.

(6) The driver's permit or a photocopy of it, with a picture of the driver, shall be displayed prominently in the interior of the taxicab.

#### **7.755 Conduct of Drivers.**

No driver shall operate any taxicab in a careless or reckless manner, smoke tobacco without the consent of the passenger, consume alcoholic beverages or illegal drugs while on duty, or engage in conduct endangering the health or safety of persons or property.

#### **7.760 Taxicab Equipment.**

In addition to the equipment required to be carried by all motor vehicles under state law, each taxicab operated under a license pursuant to sections [7.700](#) to [7.800](#) shall have:

(1) A taximeter that operates accurately at all times while the taxicab is engaged in the transportation of a fare-paying passenger and while waiting for a passenger. The face of the meter shall be at all times visible to the passenger and readable by him or her. However, if the fares charged by the licensee are based on concentric circles imposed upon a map of the city or some other similar method, no taximeter shall be required.

(2) A top light identifying it as a taxicab.

(3) A fire extinguisher approved by the chief of the fire department.

(4) The company name and telephone number where service can be requested displayed on the exterior of the vehicle.

(5) A "state of art" taxi radio on a clear coordinated taxicab frequency for customer comfort and rapid dispatching of calls for service.

#### **7.765 Taxicab Maintenance.**

The licensee shall keep each taxicab in proper repair; in a clean and sanitary condition, equipped as required in section [7.760](#), and in a safe operating condition.

#### **7.770 Rates.**

(1) The rates charged passengers shall be based on the factors of mileage from the point of origin to the point of destination by the most direct route, the time involved, and the number of passengers.

(2) The rates charged passengers shall be approved by the council. Upon the council's approval, the rates shall be filed with the manager, and no person shall charge a sum other than allowed by the rate schedule.

(3) The approved rate schedule shall be posted in each taxicab in a place where it may be readily viewed by the passengers.

**7.775 Receipt for Fare.**

Upon demand by a passenger, the taxicab driver shall issue the passenger a receipt for the fare, in legible printing or writing, containing the name of the passenger, the name of the driver, the date, and the amount of the fare paid.

**7.780 Hours of Service.**

Licensees shall maintain and have available taxicab service for citizens in the city during each hour of every day of the year unless an exception or exceptions have been approved by the council.

**7.785 Liquor Traffic.**

Neither the licensee, the driver, nor any agent or employee of either shall allow a taxicab to be used for the purpose of supplying intoxicating liquor to a person.

**7.790 Variances.**

(1) If the following conditions are met, the council may authorize variances from the requirements of sections [7.700](#) to [7.800](#):

(a) Because of special and unusual circumstances, strict application would cause an undue or necessary hardship; and

(b) The variance will not be materially detrimental to the purpose of sections [7.700](#) to [7.800](#); and

(c) The variance requested is the minimum variance necessary to alleviate the hardship.

(2) The council may attach conditions to the approval of the variance which it finds necessary to protect the public safety and convenience of the citizens.

(3) A request for a variance may be initiated by filing an application with the city manager on forms prescribed for that purpose. Before a variance is granted it shall be considered at a public hearing before the council. The public hearing shall be held within 40 days after the application is filed.

(4) Notice of the time and place of the public hearing and a summary of the proposed variance shall be given by the city manager by one publication in a newspaper of general circulation in the city not less than four days nor more than ten days prior to the date of the hearing.

**7.795 Liability.**

The city shall not be liable for any injuries occurring in, or by reason of the operation of, a taxicab.

**7.800 Penalty.**

Violation of sections [7.700](#) to [7.800](#) is a civil infraction.

## ITINERANT MERCHANTS

### 7.850 Definition.

For purposes of sections [7.850](#) to [7.860](#):

~~an (1)~~ "itinerant merchant" is a person who sells or offers for sale to the public at large, goods, wares, or merchandise, other than from door-to-door or from place-to-place, from a motor vehicle, trailer, cart, wagon, or stand, on a nonpermanent or noncontinuous basis.

(2) "Master license" is a license issued to the organizer or sponsor of a coordinated event or activity, approved by the city council, involving more than one itinerant merchant (a) for a limited duration, not exceeding five consecutive days; or (b) on a scheduled recurring basis, not more frequently than twice each calendar week, for a period not to exceed six consecutive months. A master license shall be subject to all of the provisions of sections 7.000 to 7.075.

### 7.851 Application and Fee.

(1) Application for an itinerant merchant permit shall be made on a form prescribed by the city manager and be accompanied by the fee established by resolution of the City Council

### 7.855 License Required; Exception.

(1) Except as provided in section (2), No person shall engage in business as an itinerant merchant without first ~~registering with the police department on registration forms furnished by the city~~ obtaining a permit from the city manager.

(2) A person named under a master license issued under section 7.030 is not required to have a license under subsection (1) of this section during the activity or period covered by the master license, provided, that the person shall comply with all of the requirements of sections 7.857 and 7.858, and all other applicable laws, rules, regulations and ordinances. -

~~(2) The registration form shall be adopted by resolution of the council and may be obtained in the city manager's office.~~

### 7.856 Time Limit and Location.

(1) No itinerant merchant shall do business or leave any stand or structure associated with their business at the same location for more than 6 consecutive months and after 6 consecutive months shall not reestablish their business or place any stand or structure associated with their business at that location for an additional 2 months. 3 months in any calendar year, unless the itinerant merchant is named under a master license issued for a recurring activity or event, as authorized under section 7.850(2), in which case the itinerant merchant may do business at the licensed location for the duration of the license period, provided, the merchant may not leave any stand or structure in place when not actively engaged in business.

(2) If an itinerant merchant ceases to operate a business for 14 consecutive days, the registration license for that itinerant merchant shall automatically terminate and all stands, signs, storage facilities and structures of any kind associated with the business shall be immediately removed.

(3) If the licensee under a master license for a scheduled recurring event or activity fails to operate the event or activity on more than two consecutive scheduled occasions, the master

license shall automatically terminate and all stands, signs, storage facilities and structures of any kind associated with the activity or license shall be immediately removed. Upon termination of a master license, all persons named under the master license shall cease doing business under the license.

(42) Itinerant merchant activities shall only be allowed in a commercial zone with the written permission of the lot owner. Furthermore, the proposed location must have adequate off-street parking, circulation, and other improvements deemed necessary by the city manager.

[Section 7.856 added by Ordinance No. 1437, passed June 4, 1990.]

#### **7.857 Outside Storage Prohibited.**

No outside storage or display of supplies, equipment, stock, wares or other materials associated with the business shall occur except while the itinerant merchant is present and open for business.

[Section 7.857 added by Ordinance No. 1437, passed June 4, 1990.]

#### **7.858 Premises to be Maintained.**

The business premises and any adjacent areas used or under the control of the itinerant merchant shall at all times be kept neat, clean and free of debris. All stands, storage facilities or structures used shall be in good condition, be well maintained and be aesthetically appropriate to the surrounding area.

[Section 7.858 added by Ordinance No. 1437, passed June 4, 1990.]

#### **7.859 Insurance.**

The city manager may require the itinerant merchant to obtain and maintain a policy of liability insurance from an insurance company licensed to issue insurance in the State of Oregon, with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and to provide the city with a certificate of such insurance. Said insurance coverage, if required, shall be maintained for so long as the permit remains in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city.

#### **7.860 Penalty.**

Violation of a provision of Sections [7.855](#), [7.856](#), [7.857](#), or [7.858](#) is a civil infraction.

[Section 7.860 amended by Ordinance No. 1437, passed June 4, 1990.]

## ORDINANCE NO. 1725

An Ordinance amending and restating Chapter 7 of the Dallas City Code relating to "Business;" and repealing certain provisions.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 7 of the Dallas City Code , entitled "Business," is amended and restated in its entirety as follows:

### **GENERAL REGULATORY LICENSE PROVISIONS**

#### **7.000 Applicability and Definitions.**

- (1) The provisions of sections 7.005 to 7.075 apply to this chapter when not in conflict with specific provisions contained in other sections of this chapter.
- (2) As used in sections 7.005 to 7.080, the term "license" also means "permit."

#### **7.005 Purpose.**

- (1) The regulatory license provisions of sections 7.000 to 7.075 are intended to serve the purpose of regulation of the activities and not the purpose of taxation or revenue raising.
- (2) Obtaining a regulatory license under sections 7.000 to 7.860 shall not exempt the licensee from other applicable requirements.

#### **7.010 Licenses Required.**

No person shall engage in an activity or operate a device regulated under sections 7.100 to 7.860 without first obtaining a license from the city as provided in those sections or without complying with conditions imposed by a license obtained under those sections. If the person engaged in the activity or operating the device within the city is an employee, partner, member, or agent of a partnership, joint venture, limited liability company, corporation or other form of business entity, both the person engaged in the activity or operating the device and the entity must apply for a license and be licensed under sections 7.100 to 7.860, and the provisions of sections 7.000 to 7.860 shall apply to both the person and the entity.

### **7.015 License Duration; Proration of License Fees.**

Unless a shorter term is specified, new licenses shall be valid from the date of issuance to the next following December 31, and shall be renewable annually for a term of one year, beginning on January 1. An annual license fee provided in sections 7.100 to 7.850 shall be prorated for any partial year for which the license is issued and in effect.

### **7.020 License Renewal and Late Penalty.**

(1) The license application for renewal of a license shall be made prior to the license expiration date. The effective date of a renewed license shall be January 1 if the application for renewal is made prior to the current expiration date.

(2) If a licensee fails to apply for and pay the required fee within 30 days after the expiration date of the license, and continues to operate without a valid license, a penalty fee of 25 per cent of the license fee, in addition to the license renewal fee, must be paid prior to issuance of the license.

### **7.025 Review of Renewal.**

If the city has received complaints about the licensed activity or device, the application for renewal of the license may be reviewed under section [7.035](#).

### **7.030 Application Requirements; Background Check.**

(1) Application for all licenses required by sections [7.100](#) to [7.860](#) be made on forms prescribed by the city manager. The application forms shall provide for information necessary to determine the identity and address of the applicant and of the owner of any business, activity, or device to be licensed and shall provide for other information as required by specific license provisions of this code or as necessary for review under section [7.035](#).

(2) If the application is for a master license under section 7.850(2), in addition to all other required information, the application shall specify the date or dates for which the license is sought, whether the license is sought for a single or recurring activity, and the names, addresses and other identifying and contact information required by the city manager for all persons and entities intended to be covered by the master license.

(3) The application shall be signed by the applicant and shall constitute the applicant's consent to conduct an investigation of the applicant's qualifications

by the city, and consent to a criminal background check of the applicant under city ordinance. If the applicant is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant shall consent to a criminal background check on the entity and all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to conduct the licensed activity or operate the licensed device within the city of Dallas under the license.

#### **7.035 Application Review.**

Each application shall be referred to the person, department, or agency designated by this code or the city manager to review the application.

#### **7.040 Information From Application.**

A person, agency, or department designated to review a license application may require the applicant to supply information necessary to determine under section 7.035 the applicant's qualifications for the license. If the applicant fails to supply information so required or submits false or misleading information, the license shall be suspended, revoked, or denied.

#### **7.045 Criteria for Grant, Renewal, or Denial.**

(1) Approval or denial of the application shall be based on consideration of all available evidence indicating whether the applicant meets the requirements of this code for the license that the applicant seeks.

(2) The license shall not be granted if:

(a) The activity or device to be licensed would not comply with this code, city ordinances, or state or federal law;

(b) The applicant or, if the applicant is a partnership, joint venture, limited liability company, corporation or other business entity, any of partners, joint venturers, managers, members, officers or directors, as well as any employee or agent designated to conduct the licensed activity or operate the licensed device within the city of Dallas under the license, has a criminal conviction relating to the subject matter of the license;

(c) The applicant has had a license for the same activity revoked within the previous 12-month period, unless the approval of the license is authorized by

the city council upon a determination that the reason for the previous revocation is not likely to recur;

(d) The licensed activity or device would endanger property or the public health or safety; or

(e) Any false or misleading information is supplied in the application or any information requested is omitted from the application.

#### **7.050 Issuance or Denial.**

For regulatory license applications required to be made to the manager, the following provisions apply:

(1) After receipt of reports from all persons, departments and agencies designated to review an application, the city manager shall determine whether the applicant qualifies for issuance or renewal of a license pursuant to section [7.045](#).

(2) If the applicant is qualified, the manager shall issue or renew the license.

(3) If, on the basis of the application review under section [7.035](#), the manager determines that the application does not qualify for issuance or renewal of the license applied for, the manager shall notify the applicant in writing that the application has been denied. The notice shall state the reason for denial and inform the applicant of the appeal provisions of section [7.065](#).

#### **7.055 Revocation of License.**

The city manager, upon determining that a licensed activity, establishment or device is in violation of this code, city ordinances, or state or federal law, shall notify the licensee in writing that the license is to be revoked. The notice shall be given at least 30 days before the revocation unless the period for which the license was granted will expire in less than 30 days, in which case notice shall be given at least seven days before the revocation. If the violation ends within period provided in the notice of revocation, the manager may discontinue the revocation proceedings. A notice of revocation shall state the reason for the revocation and inform the licensee of the appeal provisions of section [7.065](#).

#### **7.060 Suspension of License.**

Upon determining that a licensed activity or device presents an immediate

danger to persons or property, the city manager may suspend the license for the activity or device at once. The suspension shall take effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the appeal provisions of section 7.065. The manager may continue the suspension until a determination on appeal regarding the suspension is made under section 7.065.

### **7.065 Appeal.**

(1) An applicant whose application for a license has been denied or a licensee whose license has been denied renewal, has been suspended, or is to be revoked, may, within 30 days after the notice of denial, suspension, or revocation is mailed, appeal in writing to the council. The appeal shall state:

- (a) The name and address of the appellant;
- (b) The nature of the determination being appealed;
- (c) The reason the determination is incorrect; and
- (d) What the correct determination of the appeal should be.

(2) An appellant who fails to file such a statement within the time permitted waives objections, and the appeal shall be dismissed. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.

(3) At the hearing, the appellant may present testimony and oral argument, personally or by counsel, and any additional evidence. The rules of evidence used by courts of law do not apply, and the decision of the council after the hearing is final.

(4) The City Council may, by resolution, establish a fee for an appeal under this section, which must be paid when the appeal is filed.

### **7.070 Posting of License.**

(1) Except as provided in subsection (2), the license or permit shall be posted in a conspicuous place upon the business premises, available for inspection by the public, employees, and prospective employees of the business.

(2) If the licensee has no office, business premises, or other established place of business within the city, the license shall be at all times in the possession of an employee or representative of the business who is present within the city while business is being transacted by an employee or representative within the city.

### **7.075 Transfer or Assignment of License.**

Except as may be otherwise provided by sections [7.100](#) to [7.860](#), no person shall transfer or assign a license or a permit issued under this chapter.

## **MISCELLANEOUS LICENSES**

### **7.100 Tent Shows.**

Every tent show or exhibition shall pay a license fee established by the City Council. In addition, any tent show or exhibition desiring selling privileges shall pay a daily license fee or a weekly license fee established by resolution of the City Council.

### **7.105 Carnivals.**

Every amusement enterprise consisting of sideshows, vaudeville, games of chance, mechanical rides, and confection stands, popularly known as a "carnival," shall pay a license fee established by resolution of the City Council.

### **7.125 Restroom Facilities.**

All places of public amusement and entertainment shall have access to restroom facilities for male and female participants and spectators near the premises where the amusement or entertainment is conducted.

### **7.135 Penalties.**

Violation of provision of sections [7.100](#) to [7.125](#) is a civil infraction.

## AMUSEMENT PLACES AND GAMES

### 7.200 Definitions.

For purposes of sections 7.200 to 7.230, the following mean:

Billiard or pool room. A place open to the general public in which a pool or billiard table is maintained and a charge is made for the use of the table.

Bowling alley. A unit in a building or place where a single game is played at one time by rolling balls by hand at any one or more objects.

Cardroom. Any place open to the public in which social games of cards are played.

Regulated game machine. A game machine that requires the insertion of coin, currency, slug, token, or similar object to activate the game, such as a pinball machine, video poker machine licensed by the State of Oregon, pool table, or shuffleboard, and which is located in a commercial establishment.

Shooting gallery. An enclosure in which guns are discharged at an object to display skill or marksmanship.

Skating rink. A place or premises maintained and open to the public for the purpose of roller skating or ice skating and a charge is made for such privilege.

Social game. A game between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the game.

### 7.205 License Required.

(1) No person shall maintain or operate a cardroom, billiard room, poolroom, bowling alley, skating rink, or shooting gallery in the city without first obtaining a license from the city manager.

(2) No person shall possess six or more regulated game machines for commercial use in the city without first obtaining a license from the city manager.

(3) No person shall furnish a regulated game machine to a commercial establishment and retain any ownership interest or right to receive proceeds

therefrom without first obtaining a license from the city manager.

### **7.210 Criteria for Grant or Denial of Application.**

In addition to conforming to the requirements listed in section 7.045, the license required under section 7.205 shall not be granted if:

- (1) Any person financially interested in the business has been previously convicted of a felony within the last 10 years;
- (2) Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;
- (3) Any person financially interested in the business has been convicted of any crimes involving gambling within the last five years or any person who has any financial interest in the business has forfeited bail for any crime involving gambling within the last five years;
- (4) Any person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in state law when such gambling device has been ordered destroyed within the last five years;
- (5) Any person financially interested in the business has had a license in his/her name which has been revoked or suspended three or more times by the Oregon Liquor Control Commission, the last of which was in the last five years;

### **7.215 License Fees.**

The license fees required under section 7.205 shall be established by resolution of the City Council.

### **7.220 Gambling Prohibited.**

No person operating or assisting in the operation of any business described in section 7.200 where a regulated game machine is available to the public shall permit a person to gamble or to play any game of chance upon the premises for a monetary benefit, except in regulated game machines licensed by the State of Oregon for gambling.

### **7.225 Condition of Premises.**

All places of business required to be licensed by section 7.205 shall at all times be kept in a clean and sanitary condition and shall be open at all reasonable times to inspection by the city for violations of this or any other city code provision.

### **7.230 Penalties.**

Violation of a provision of sections 7.200 to 7.225 is a civil infraction.

## **VENDORS ON PUBLIC RIGHT-OF-WAY**

### **7.400 Permit Required.**

No person shall conduct business on any public right-of-way without first obtaining a permit from the city manager.

### **7.405 Permit Fee.**

Each application for a permit to conduct business on a public right-of-way shall be accompanied by a fee established by council resolution.

### **7.410 Application and Fee.**

(1) Application for a permit to conduct business on a public right-of-way shall be made on a form prescribed by the city manager and pay the fee established by resolution of the City Council.

(2) A separate application shall be required for each mobile container or device to be used for transportation or display.

### **7.411 Insurance.**

The city manager may require the vendor to obtain and maintain a policy of liability insurance from an insurance company licensed to issue insurance in the State of Oregon, with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and to provide the city with a certificate of such insurance. Said insurance coverage, if required, shall be maintained for so long as the permit remains in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city.

#### **7.415 Location Review.**

(1) Upon receipt of an application for a permit, the manager shall review each location applied for to determine whether the location is within a commercial area and the use of the location for public right-of-way vending is compatible with the public interest in use of street and sidewalk areas as public rights-of-way.

(2) In making the determination, the manager may consider the width of the public right-of-way, the proximity and location of existing street furniture, including but not limited to, sign posts, lamp posts, parking meters, bus shelters, benches, phone booths, and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands, to determine whether the proposed use would result in pedestrian or street congestion.

(3) If the manager determines the proposed location is unsuitable, the city manager shall so inform the applicant who may appeal the decision to the council in the same manner as an appeal filed under section 7.065, upon the filing of an appeal fee established by resolution of the City Council.

#### **7.420 Form and Conditions of Permit.**

Permits issued shall be in a form prescribed by the manager. Permits shall contain the following conditions:

(1) The permit is valid only when used at the location(s) designated on the permit.

(2) The permit as it applies to a given location may be suspended for a period up to ten days when council action providing for a "community event" requires the suspension.

#### **7.425 Restrictions.**

(1) A person conducting business on a public right-of-way must display prominently the permit issued by the city manager.

(2) No person shall conduct business at a location other than that designated on the permit.

(3) No permittee shall make any loud or unreasonable noise of any kind for the purpose of advertising or attracting attention to the permittee's wares.

(4) No permittee shall conduct business in violation of the council action providing for a community event.

**7.430 Penalty.**

Violation of a provision of sections 7.400 to 7.425 is a civil infraction.

**GARAGE SALES**

**7.500 Definition.**

For purposes of sections 7.500 to 7.545, "garage sale" means the public sale or offering for sale of new or used goods within the city by any individual or group of individuals from private or public property, including but not limited to garages, porches, carports and yards, when:

- (1) The individual or group of individuals is not regularly engaged in the business of selling such goods; or
- (2) When the property on which the sale is conducted is not regularly used for business purposes or is not in a zone permitting commercial use.

**7.505 Exemption.**

The following are exempt from the provisions of sections 7.500 to 7.545:

- (1) Offering for sale one item by public display with a sign indicating the item is for sale, and the sale of more than one individual item not offered for sale by public display or by signs concerning a sale or place of sale; and
- (2) Sales commonly referred to as "rummage sales," conducted by members of fraternal, civic, patriotic, religious, service, charitable, educational, or eleemosynary organizations with a chapter, lodge, post, congregation, or other unit existing within the city.

**7.510 Permit Required.**

No individual or group of individuals shall hold a garage sale without first obtaining a permit.

### **7.515 Application.**

In addition to the provisions of sections 7.000 to 7.080, the application shall include:

- (1) A description of the place from which the sale is to be held.
- (2) The dates and hours of the day during which the sale is to be conducted.
- (3) Whether the person will be selling any upholstered furniture or bedding.
- (4) Whether the owner of such goods is to pay any commission for the sale.
- (5) Whether the owner or lessee in possession of the premises from which the sale is to be conducted is to receive any compensation for the use of the premises.
- (6) Whether the individual or group of individuals conducting the sale have conducted a sale within the past 12 months.
- (7) Whether other garage sales have been held upon the premises upon which the sale is to be held during the calendar year in which the proposed sale is to be held.

### **7.520 Permit Issuance.**

The city manager shall issue a permit for the sale if the city manager finds that:

- (1) The application is properly completed; and
- (2) No commission is paid by the individual or individuals owning the goods to be sold and that no compensation is received by the owner or lessee of the premises from which the sale is to be conducted; and
- (3) The individual or group of individuals conducting the sale have not conducted a like sale previously during the past 12 months; and
- (4) No other such sale has been held upon the premises upon which the garage sale is to be held during that portion of the past 12 months in which the individual or individuals then occupying the premises have occupied the premises.

(5) Notwithstanding the provisions of this section, the city manager may issue a permit for a second sale within a 12-month period to the same person or to be held on the same premises.

#### **7.525 Duration of Permit.**

The permit issued by the city manager shall be valid for a period not to exceed three consecutive days and shall permit the sale only between the hours of 8 a.m. and 9 p.m.

#### **7.530 Permit Fee.**

No fee shall be required if the application is made prior to the commencement of the sale. If the application is made after the commencement of the sale, a fee in an amount established by resolution of the City Council shall be charged.

#### **7.535 Display of Permit.**

No garage sale shall be held without a permit being prominently displayed so that it can be seen readily from the street.

#### **7.540 Signs.**

(1) Only one sign shall be posted upon the premises on which the garage sale is to be held.

(2) One off premises sign for the purpose of directing people to the garage sale shall also be permitted but only a sign issued by the city shall be allowed. The city shall have available a reasonable supply of garage sale signs for use by individuals at no cost. The city may secure a deposit to cover the cost of replacing the sign in the event it is damaged or lost.

(3) Signs shall not be placed in the public right-of-way and shall be placed upon private property only with the consent of the property owner. Signs shall not be placed earlier than one hour before the garage sale starts and shall be removed by no later than one hour after the conclusion of the garage sale.

#### **7.545 Penalty.**

Violation of a provision of sections [7.500](#) to [7.540](#) is a civil infraction.

## **SOLICITATION**

### **7.600 Policy and Purpose.**

The council finds it necessary and desirable to regulate solicitation in order to provide an effective opportunity for the occupants of residential property to protect themselves from the unwanted disruption of the peaceful and quiet enjoyment of their property and right of privacy that is caused by solicitors, to protect the rights to free speech guaranteed by the Oregon and Federal Constitutions for lawful solicitors, and to provide a means by which those solicitors who choose to intrude upon and disrupt an occupant's quiet enjoyment of property can be held accountable for such violations. The council has also been advised that, based upon actual experiences in Dallas and in the opinion of crime prevention specialists nationwide, there is a direct connection between residential burglaries and unscrupulous solicitors. The creation of a registration requirement will enable city officials and citizens of the city to become informed concerning the individuals and organizations who choose to solicit in the city. Sections 7.600 to 7.640 also provide a mechanism for discouraging those solicitors who avoid registration and provide a mechanism to identify and discourage those who would use solicitation as a front for criminal activity.

### **7.605 Definition.**

For purposes of sections 7.600 to 7.640, the terms "solicit" and "solicitation" mean the entry onto real property by a person for the purpose of taking orders for goods, wares or merchandise or any article or thing of value for present or future delivery or for services to then be performed or to be performed in the future or for the making, manufacture or repair of any article or thing whatsoever for present or future delivery without the actual consent of the occupant to do so; provided, however, that this shall not be deemed to include regular commercial travelers employed by wholesale houses and selling goods, wares, merchandise or services to merchants of this city, nor to newspaper vendors or minors selling goods, wares, merchandise or services on behalf of any public or private school or any nonprofit charitable organization that is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code of the United States, as it may be amended from time to time.

### **7.610 Prohibited Acts and Penalties.**

- (1) No person shall:
  - (a) Solicit before 9 a.m. or after 9 p.m. when the local time is daylight

savings time or after 8 p.m. when the local time is standard time.

(b) Solicit without first having obtained a registration certificate if required to do so by sections 7.600 to 7.640.

(c) Violate the terms of a registration certificate issued under sections 7.600 to 7.640.

(d) Solicit after a registration certificate has been revoked.

(e) Allow, suffer, or permit any person soliciting on their behalf or under their direction to commit any act prohibited by this section.

(f) Provide false or fraudulent information on a registration statement.

(g) Allow, suffer, or permit any person to solicit on their behalf after a registration certificate has been revoked.

(2) Violation of subsections (1)(a), (1)(c), (1)(e), and (1)(f) of this section is punishable by a fine of not more than \$500.

(3) Violation of subsection (1)(b) of this section is punishable by a fine of not more than \$500 unless the violation is intentional, in which case it is punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

(4) Violation of subsections (1)(d) and (1)(g) of this section is punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days, or by both fine and imprisonment.

#### **7.615 Consent to Enter Onto Real Property, Exemptions.**

(1) It shall be an affirmative defense to an alleged violation of section 7.610 (1)(a) that the person charged with the violation had received actual or constructive consent of the occupant prior to entering the real property. Constructive consent to enter the real property may be implied from the circumstances of each instance, the relationship of the parties, and actual or implied contractual relationships.

(2) Nothing in this section shall be construed to authorize the entry into a structure located on real property. The right to enter any structure must be otherwise provided for by law.

(3) Officers, employees, or agents of a governmental entity, while performing activities within the scope of their office, employment, or agency are exempt from the requirements of sections 7.600 to 7.640.

(4) No person may be charged with a violation of sections 7.600 to 7.640 in connection with an act committed between 4 p.m. and 10 p.m. on October 31.

#### **7.620 Registration Statement.**

(1) All persons intending to solicit at five or more dwelling units in the city during any eight-hour period shall pay the registration fee established by resolution of the City Council and file with the city manager a registration statement, on forms provided by the city manager, containing the following information:

(a) The name of the person registering and desiring to solicit.

(b) Whether the person registering is a natural person, partnership, corporation, limited liability company or association, and

(i) If a natural person, the business or residence address and telephone number of the person.

(ii) If a partnership, the names of all partners and the principal business address and telephone number of each partner.

(iii) If a corporation, the person registering must state whether it is organized under the laws of Oregon or is a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the Willamette Valley area office of such corporation, and the registered agent of the corporation and the names of all officers and directors or trustees of the corporation, and, if a foreign corporation, the place of incorporation.

(iv) If an association or limited liability company, the registration statement shall show the association or limited liability company's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association or limited liability company, unless they exceed ten in number, in which case the application shall so state and the person registering may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association or

managers of the limited liability company. If the association or limited liability company is part of a multi-state organization or association, the mailing address and business location of its central office shall be given, in addition to the mailing address and business location of its local office.

(c) A brief description of the nature of the organization if the person registering is a partnership, association or corporation and an explanation of the intended purpose of the solicitation.

(d) The names, mailing address, and telephone number of all individuals who will be in direct charge or control of the solicitation and the names and addresses of all persons who will be actually involved in the solicitation activity. One of the named individuals shall be designated to receive any notice or communication from the city or the public concerning the solicitation activities.

(e) The time period within which the solicitation is to be made, giving the date of the beginning of solicitation and its projected conclusion.

(f) A description of the methods and means by which the solicitation is to be accomplished and the approximate locations and dates on which those locations will be visited.

(g) The names of any other cities in which the person registering has solicited within the past five years, but if the person registering has solicited in more than five other cities, the person registering may list the five cities located closest to Dallas.

(h) A statement that if a certificate of registration is granted, the certificate will not be used as or represented to be an endorsement by the city or any of its officers or employees.

(i) The names of any officer, director, trustee, partner, corporation, or any current agent or employee or any other person actually engaging in the solicitation who has signed a consent decree or order in the last five years or who has been convicted of a felony or a misdemeanor involving moral turpitude within the past five years, and the nature of the offense or consent decree or order, the state where the conviction or consent decree or order occurred, and the year of the conviction or consent decree or order.

(j) An explanation of the reasons, if the person registering is unable to provide any of the foregoing information, why such information is not available.

(k) The registration statement must be signed by the applicant, if the person registering is an individual; if the person registering is a partnership, by a partner; if the person registering is a corporation or an association, by an officer. The individual signing the registration statement shall sign the statement and swear or affirm before an Oregon notary that he has carefully read the registration statement and that all the information contained therein is true and correct.

(2) Submission of a registration statement under this section shall constitute the registrant's consent to conduct an investigation of the registrant's qualifications by the city, and consent to a criminal background check of the registrant under city ordinance. If the registrant is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant shall consent to a criminal background check on the entity and all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to engage in solicitation within the city of Dallas under the registration.

(3) The registration statement and information submitted with the registration statement are public records available for public inspection during normal city business hours.

#### **7.625 Issuance of Certificate of Registration.**

(1) After a review of the registration statement to determine its compliance with section 7.620, and within ten working days of the receipt of the registration statement, the city manager shall either issue a certificate of registration in the form provided by section 7.635, or notify the person registering that the registration statement does not comply with the requirements of section 7.620. The notice shall specifically point out what required information or explanation has not been furnished before a certificate of registration can be issued.

(2) If the person registering is engaged in an activity for which a business license is required by the city, proof of a valid business license shall be furnished prior to the issuance of the certificate.

#### **7.630 Revocation of Registration.**

(1) A certificate of registration shall be revoked by the city manager if a registered person, or one or more solicitors engaged on behalf of that person, are convicted or plead guilty or no contest to a cumulative minimum of two

violations of section 7.610 occurring within any 30 calendar day period in connection with or on behalf of the solicitation of the registered person. A certified copy of the municipal court record of plea or conviction is conclusive proof that a violation has occurred.

(2) The period of revocation shall be for six months, during which time the person may not receive a certificate of registration.

(3) Within five working days of receipt of notification that a registered person has been convicted or plead guilty or no contest to the second violation, the city manager shall notify the person designated in the registration statement to receive notice of the action to revoke, in writing, five days prior to the effective date of the revocation.

(4) The person may appeal the manager's decision to the council by filing a notice of appeal with the city manager within 10 days of the effective date of the revocation. During the pendency of the appeal, the order to revoke is stayed.

#### **7.635 Form of Certificate of Registration, Term.**

(1) The city manager shall prescribe the form of the certificate of registration. Each such certificate shall have the following printed prominently thereon: "The issuance of this certificate of registration is not an endorsement by the city of Dallas or any of its officers or employees." Each certificate of registration shall bear a registration number which is the same as the file containing the registration statement filed by the registrant.

(2) Every certificate of registration issued by the city manager shall contain a termination date upon which the certificate shall expire. The termination date shall be the termination of the solicitation period specified in the registration statement or one year from the date of issuance, whichever is less.

(3) The certificate of registration shall contain a list of the acts prohibited by section 7.610.

#### **7.640 Evidentiary Matters.**

For the purposes of sections 7.610(1)(e) and 7.610(1)(g), if a person solicits on behalf of a person registered pursuant to sections 7.600 to 7.640, it is presumed that the person registered allowed, suffered, or permitted the solicitation.

### **7.645 Exception.**

The provisions of sections 7.000 to 7.080 are not applicable to sections 7.600 to 7.640.

## **TAXICABS**

### **7.700 Purpose.**

It is the purpose of sections 7.700 to 7.800 to require that those persons, firms, or corporations operating taxicabs in the city do so in a safe, fair, and efficient manner. In the accomplishment of this purpose, the council considers it necessary to impose some regulations on the operation of taxicabs in the city to insure that the public safety and convenience is promoted.

### **7.705 Definitions.**

As used in sections 7.700 to 7.800, the following mean:

Driver. A person who operates a taxicab as an agent, employee, or otherwise, of the owner; as owner; or, under the direction of the owner.

Owner. The person licensed to conduct a taxicab business pursuant to sections 7.700 to 7.800.

Taxicab. A motor vehicle that is designed or constructed to accommodate and transport not less than three nor more than five passengers, exclusive of the driver, and which is used to transport persons for hire.

### **7.710 License.**

No person shall engage in the taxicab business within the city without having first obtained a license from the city manager.

### **7.715 Application, Information, Requirement.**

An application for a license to conduct a taxicab business within the city shall be filed with the city manager and shall be accompanied by a nonrefundable fee in an amount established by resolution of the City Council. The application shall contain or be accompanied by the following information and documentation:

- (1) The name, business address, residence address, and telephone number

of the applicant;

(2) Previous experience, if any, of the applicant in conducting a taxicab business;

(3) The make, type, year of manufacture, and seating capacity of each vehicle the applicant intends to use in the taxicab business, together with proof of the safe operating condition of each such vehicle from a source acceptable to the chief of police;

(4) A statement as to whether the applicant, its principals (if a partnership or firm) or its officers (if a corporation) have been convicted of a felony, misdemeanor, or offense constituting a violation of municipal ordinance, code provision, or state law (other than minor traffic and parking offenses); the charge of which convicted; and the punishment or penalty assessed;

(5) A proposed schedule of charges for taxicab service; and

(6) Such other information the council may consider necessary for the proper protection of the public.

#### **7.720 Action on Application.**

The city manager shall refer each application to the council for its approval or rejection. However, before submitting the application to the council, the manager shall direct the chief of police to investigate the applicant's background and the matters contained in the application form. The chief of police shall complete the investigation and make a report of his findings to the city manager within 60 days of the date he is requested to investigate.

#### **7.725 Licensing Fees.**

(1) If the council approves the application for a taxicab business license, the city manager shall issue a license to the applicant for a term of one year from its date of issue, after first collecting from the applicant a license fee as follows:

- (a) For the operation of one taxicab, \$50; and
- (b) For the operation of each additional taxicab, \$25.
- (c) Future fees may be determined by council resolution.

(2) The license shall be subject to renewal annually upon payment of the license fee. The license fee shall not be prorated for any fraction of a year, except that if a second taxicab is placed in operation by the licensee after the current license is issued and within 60 days of the expiration date, the license fee for the second taxicab shall entitle the licensee to operate the second taxicab for the balance of the current year and the next succeeding year.

### **7.730 Transfer, Suspension, or Revocation of License.**

(1) No taxicab license may be sold, assigned, or otherwise transferred without the consent of the council.

(2) A taxicab license may be suspended or revoked by the council after a hearing at which the certificate holder is given an opportunity to appear if any one or more of the following conditions exist:

(a) A false statement is made on an application.

(b) The owner ceases to operate a taxicab for a period of 15 consecutive days without obtaining permission for the cessation of operation from the council.

(c) The owner fails to operate the taxicab business in accordance with the provisions of sections [7.700](#) to [7.800](#).

(d) The taxicabs are operated at a rate of fare other than that filed with the city manager.

(e) The owner fails to pay the fees or payments required to be paid by him by the provisions of sections [7.700](#) to [7.800](#).

(f) The licensee is convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law, other than minor traffic and parking offenses, relating to the operation of a vehicle.

(3) The license may be summarily revoked by the city manager when, in the city manager's opinion, the continued operation poses a risk of immediate threat or hazard to the public safety. The revocation may be appealed as provided in section [7.735](#).

### **7.735 Hearing on Rejection.**

(1) If the application for a taxicab business license is rejected or a license is suspended or revoked, notice shall be given promptly to the applicant and the applicant shall be furnished with a statement of the reasons for the rejection, revocation, or suspension.

(2) The applicant may request a hearing before the council for the purpose of rebutting the council's reason for the rejection if a request for a reason is made by the applicant within 15 days after the date of the notice of rejection.

(3) If a hearing is held, the council may affirm its rejection of the application or may grant the application.

### **7.740 Display of License.**

The current license or a photocopy of it shall be displayed in the interior of each taxicab in a place which is readily visible to each passenger.

### **7.745 Insurance.**

(1) No taxicab license shall be issued until the applicant has filed with the city manager evidence that the applicant has obtained public liability insurance covering the operation of the applicant's taxicab or taxicabs with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and provided the city with a certificate of such insurance. Said insurance coverage shall be maintained for so long as the permit remains in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city.

(2) The applicant shall also file with the city manager evidence that the insurance carrier shall give the city not less than 30 days' notice of any change in the insurance coverage or of any cancellation of coverage.

### **7.750 Approval of Drivers.**

(1) No person shall drive a taxicab in the city until the person has received a permit from the chief of police.

(2) The application for a permit shall contain the following information:

(a) The name, address, age, social security number, and Oregon motor vehicle operator's license number of the applicant.

(b) The number of motor vehicle accidents in which the applicant has been involved as a driver that resulted in injury to one or more persons, or property damage in excess of \$500.

(c) A statement as to whether the applicant has ever been convicted of a felony, misdemeanor, or offense constituting a violation of a municipal ordinance, code provision, or state law; the charge of which he was convicted; and the penalty or punishment assessed.

(d) The fingerprints of the applicant.

(3) The application shall be accompanied by an application fee of \$10.

(4) No permit shall be issued to a person below the age of 18 years.

(5) The chief of police shall review the application and issue or deny a driving permit within ten days after the filing of the application. If a permit is denied, the applicant may appeal to the council by giving notice to the chief of police within ten days after the date of denial.

(6) The driver's permit or a photocopy of it, with a picture of the driver, shall be displayed prominently in the interior of the taxicab.

#### **7.755 Conduct of Drivers.**

No driver shall operate any taxicab in a careless or reckless manner, smoke tobacco without the consent of the passenger, consume alcoholic beverages or illegal drugs while on duty, or engage in conduct endangering the health or safety of persons or property.

#### **7.760 Taxicab Equipment.**

In addition to the equipment required to be carried by all motor vehicles under state law, each taxicab operated under a license pursuant to sections [7.700](#) to [7.800](#) shall have:

(1) A taximeter that operates accurately at all times while the taxicab is engaged in the transportation of a fare paying passenger and while waiting for a passenger. The face of the meter shall be at all times visible to the passenger and

readable by him or her. However, if the fares charged by the licensee are based on concentric circles imposed upon a map of the city or some other similar method, no taximeter shall be required.

- (2) A top light identifying it as a taxicab.
- (3) A fire extinguisher approved by the chief of the fire department.
- (4) The company name and telephone number where service can be requested displayed on the exterior of the vehicle.
- (5) A "state of art" taxi radio on a clear coordinated taxicab frequency for customer comfort and rapid dispatching of calls for service.

#### **7.765 Taxicab Maintenance.**

The licensee shall keep each taxicab in proper repair; in a clean and sanitary condition, equipped as required in section [7.760](#), and in a safe operating condition.

#### **7.770 Rates.**

- (1) The rates charged passengers shall be based on the factors of mileage from the point of origin to the point of destination by the most direct route, the time involved, and the number of passengers.
- (2) The rates charged passengers shall be approved by the council. Upon the council's approval, the rates shall be filed with the manager, and no person shall charge a sum other than allowed by the rate schedule.
- (3) The approved rate schedule shall be posted in each taxicab in a place where it may be readily viewed by the passengers.

#### **7.775 Receipt for Fare.**

Upon demand by a passenger, the taxicab driver shall issue the passenger a receipt for the fare, in legible printing or writing, containing the name of the passenger, the name of the driver, the date, and the amount of the fare paid.

#### **7.780 Hours of Service.**

Licensees shall maintain and have available taxicab service for citizens in the

city during each hour of every day of the year unless an exception or exceptions have been approved by the council.

#### **7.785 Liquor Traffic.**

Neither the licensee, the driver, nor any agent or employee of either shall allow a taxicab to be used for the purpose of supplying intoxicating liquor to a person.

#### **7.790 Variances.**

(1) If the following conditions are met, the council may authorize variances from the requirements of sections 7.700 to 7.800:

(a) Because of special and unusual circumstances, strict application would cause an undue or necessary hardship; and

(b) The variance will not be materially detrimental to the purpose of sections 7.700 to 7.800; and

(c) The variance requested is the minimum variance necessary to alleviate the hardship.

(2) The council may attach conditions to the approval of the variance which it finds necessary to protect the public safety and convenience of the citizens.

(3) A request for a variance may be initiated by filing an application with the city manager on forms prescribed for that purpose. Before a variance is granted it shall be considered at a public hearing before the council. The public hearing shall be held within 40 days after the application is filed.

(4) Notice of the time and place of the public hearing and a summary of the proposed variance shall be given by the city manager by one publication in a newspaper of general circulation in the city not less than four days nor more than ten days prior to the date of the hearing.

#### **7.795 Liability.**

The city shall not be liable for any injuries occurring in, or by reason of the operation of, a taxicab.

### **7.800 Penalty.**

Violation of sections 7.700 to 7.800 is a civil infraction.

## **ITINERANT MERCHANTS**

### **7.850 Definition.**

For purposes of sections 7.850 to 7.860:

(1) "Itinerant merchant" is a person who sells or offers for sale to the public at large, goods, wares, or merchandise, other than from door-to-door or from place-to-place, from a motor vehicle, trailer, cart, wagon, or stand, on a nonpermanent or noncontinuous basis.

(2) "Master license" is a license issued to the organizer or sponsor of a coordinated event or activity, approved by the city council, involving more than one itinerant merchant (a) for a limited duration, not exceeding five consecutive days; or (b) on a scheduled recurring basis, not more frequently than twice each calendar week, for a period not to exceed six consecutive months. A master license shall be subject to all of the provisions of sections 7.000 to 7.075.

### **7.851 Application and Fee.**

Application for an itinerant merchant permit shall be made on a form prescribed by the city manager and be accompanied by the fee established by resolution of the City Council

### **7.855 License Required; Exception.**

(1) Except as provided in section (2), no person shall engage in business as an itinerant merchant without first obtaining a permit from the city manager.

(2) A person named under a master license issued under section 7.030 is not required to have a license under subsection (1) of this section during the activity or period covered by the master license, provided, that the person shall comply with all of the requirements of sections 7.857 and 7.858, and all other applicable laws, rules, regulations and ordinances.

### **7.856 Time Limit and Location.**

(1) No itinerant merchant shall do business or leave any stand or structure

associated with their business at the same location for more than 3 months in any calendar year, unless the itinerant merchant is named under a master license issued for a recurring activity or event, as authorized under section 7.850(2), in which case the itinerant merchant may do business at the licensed location for the duration of the license period, provided, the merchant may not leave any stand or structure in place when not actively engaged in business.

(2) If an itinerant merchant ceases to operate a business for 14 consecutive days, the license for that itinerant merchant shall automatically terminate and all stands, signs, storage facilities and structures of any kind associated with the business shall be immediately removed.

(3) If the licensee under a master license for a scheduled recurring event or activity fails to operate the event or activity on more than two consecutive scheduled occasions, the master license shall automatically terminate and all stands, signs, storage facilities and structures of any kind associated with the activity or license shall be immediately removed. Upon termination of a master license, all persons named under the master license shall cease doing business under the license.

(4) Itinerant merchant activities shall only be allowed in a commercial zone with the written permission of the lot owner. Furthermore, the proposed location must have adequate off-street parking, circulation, and other improvements deemed necessary by the city manager.

#### **7.857 Outside Storage Prohibited.**

No outside storage or display of supplies, equipment, stock, wares or other materials associated with the business shall occur except while the itinerant merchant is present and open for business.

#### **7.858 Premises to be Maintained.**

The business premises and any adjacent areas used or under the control of the itinerant merchant shall at all times be kept neat, clean and free of debris. All stands, storage facilities or structures used shall be in good condition, be well maintained and be aesthetically appropriate to the surrounding area.

#### **7.859 Insurance.**

The city manager may require the itinerant merchant to obtain and maintain a policy of liability insurance from an insurance company licensed to issue

insurance in the State of Oregon, with limits in an amount the city manager reasonably deems appropriate, and with the city named as an additional insured thereunder, and to provide the city with a certificate of such insurance. Said insurance coverage, if required, shall be maintained for so long as the permit remains in effect. The insurance policy and certificate of insurance shall contain a provision that, for the period of time covered by the permit, it cannot lapse or be canceled or amended without at least ten days advance notice to the city.

**7.860 Penalty.**

Violation of a provision of Sections [7.855](#), [7.856](#), [7.857](#), or [7.858](#) is a civil infraction.

Section 2. Dallas City Code Sections 7.115, 7.120, 7.130, 7.140, 7.142, 7.144, 7.146, 7.150, 7.350, 7.355, 7.360, 7.365, 7.370, 7.375, 7.380 and 7.385 and all prior and conflicting ordinances are repealed.

Read for the first time: June 7, 2010  
Read for the second time: June 21, 2010  
Passed by the City Council: June 21, 2010  
Approved by the Mayor: June 21, 2010

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1726

An Ordinance authorizing criminal background checks of applicants for certain business licenses, permits and registrations subject to regulation under Dallas City Code Chapter 7.

WHEREAS, pursuant to ORS 181.555 and OAR 257-010-0025, Ordinance No. 1695 was adopted to establish procedures for access to criminal record information possessed by the Oregon State Police (OSP) through the Law Enforcement Data System (LEDS) for applicants for employment, and public service volunteers with the City, and certain other employees in the community and non-profit volunteers and housing tenants; and

WHEREAS, the City Council finds that it is in the public interest to authorize access to OSP criminal offender information through the LEDS system, for applicants for certain business licenses and permits subject to regulation by the City of Dallas, and for persons who submit a registration statement to solicit within the City of Dallas; NOW, THEREFORE,

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. All persons who file an application for a permit or license to conduct any activity or engage in any business subject to regulation pursuant to Chapter 7 of the Dallas City Code, and all persons who file a registration statement to solicit within the City of Dallas, as provided in Dallas City Code Section 7.620, shall authorize the City to conduct a criminal background check through the OSP LEDS system, in accordance with and subject to the provisions of Ordinance No. 1695.

Section 2. If an applicant for a permit or license, or a registrant, is a partnership, joint venture, limited liability company, corporation or other business entity, the applicant or registrant shall consent to a criminal background check on the entity and on all partners, joint venturers, members, managers, officers and directors, as well as any employee or agent designated to engage in the activity for which the permit or license is sought, or to solicit pursuant to the registration, within the City of Dallas.

Read for the first time: June 7, 2010  
Read for the second time: June 21, 2010  
Adopted by the City Council: June 21, 2010  
Approved by the Mayor: June 21, 2010

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER

ORDINANCE NO. 1720

An Ordinance Amending Dallas City Code Sections 6.610 regarding recreational vehicle parking permits; and repealing conflicting provisions.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. DCC 6.610, entitled "Parking Permit," is amended to read as follows:

**6.610 Parking Permit.**

(1) A permit may be obtained by filing an application at the office of the city manager, accompanied by a fee in an amount set by the council by resolution. The application shall include the location and description of the camper, motor home, or travel trailer, the character and duration of occupancy, the character of water and sanitary facilities available, and any other information which the city manager considers necessary to carry out the purpose of sections 6.600 to 6.615.

(2) If the city manager determines that the issuance of a permit will not contravene the purpose of sections 6.600 to 6.615 or of any applicable code provision, the manager may issue a permit authorizing the applicant to park or place and occupy the described camper, motor home, or travel trailer, and may attach conditions necessary to carry out the purpose of sections 6.600 to 6.615.

(3) The period of occupancy granted under the permit shall not exceed 14 consecutive days, or 21 days during any consecutive six-month period. In addition, if a single period of occupancy extends more than ten consecutive days, the camper, motor home or travel trailer may not be occupied again until at least 30 days from the end of the period of occupancy.

Section 2. All prior and conflicting ordinances are hereby repealed.

Read for the first time:	April 5, 2010
Read for the second time:	June 7, 2010
Passed by the City Council:	June 7, 2010
Approved by the Mayor:	June 7, 2010

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JAMES B. FAIRCHILD, MAYOR

ATTEST:

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JERRY WYATT, CITY MANAGER