

City of Alvin, Texas

Paul Horn, Mayor

Adam Arendell, Mayor Pro-tem, District B
Brad Richards, At Large Position 1
Terry Droege, At Large Position 2
Scott Reed, District A



Keith Thompson, District C
Roger E. Stuksa, District D
Gabe Adame, District E

ALVIN CITY COUNCIL AGENDA

THURSDAY, MARCH 17, 2016

7:00 P.M.

(Council Chambers)

Alvin City Hall, 216 West Sealy, Alvin, Texas 77511

Persons with disabilities who plan to attend this meeting that will require special services please contact the City Clerk's Office at 281-388-4255 or droberts@cityofalvin.com 48 hours prior to the meeting time. City Hall is wheel chair accessible and a sloped curb entry is available at the east and west entrances to City Hall.

NOTICE is hereby given of a Regular Meeting of the City Council of the City of Alvin, Texas, to be held on **Thursday, March 17, 2016** at 7:00 p.m. in the Council Chambers at: City Hall, 216 W. Sealy, Alvin, Texas.

REGULAR MEETING AGENDA

1. **CALL TO ORDER**
2. **INVOCATION AND PLEDGE OF ALLEGIANCE**
3. **PUBLIC COMMENT**
4. **PRESENTATIONS**
 - A. Economic Development/Strategic Project Update.
5. **CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION:** An item(s) may be removed from the Consent Agenda for full discussion by the request of a member of Council. Item(s) removed will automatically become the first item up for discussion under Other Business.
 - A. Approve minutes of the March 3, 2016 City Council workshop meeting.
 - B. Approve minutes of the March 3, 2016 City Council regular meeting.
 - C. Proclamation designating April 2016 as Fair Housing Month.
6. **OTHER BUSINESS:**

Council may approve, discuss, refer, or postpone items under Other Business.

 - A. Consider request from Gordon Street Tavern to use the adjoining city-owned parking lot located at Gordon Street and Depot Drive to serve Beer and Food during an event to be held on April 29, 2016; and approve the License Agreement for Use of City Property; and authorize the City Manager to sign.
 - B. Consider Resolution 16-R-04; appointing Mike Merkel to serve as an Alternate Judge for the Alvin Municipal Court for a two-year term; and approving the Agreement between the City of Alvin and Mike Merkel; and authorize the Mayor to sign.

- C. Consider authorizing the Engineering Department to solicit bids for the Venia Property Rentals Development Drainage Project along W. Willis, W. Phillips, Hill, and Lee Streets.
- D. Consider Ordinance 16-C; amending Chapter 13, Itinerant Merchants and Vendors, providing for the regulation of solicitations in the City by amending Article I, In General, for the purpose of adding definitions, revising regulations for the application and identification cards; deleting Article III, Mobile Vendor, in its entirety; establishing a penalty for violations; providing a savings and severability clause; and setting forth other provisions related thereto.
- E. Consider Ordinance 16-D; amending Chapter 10, Food And Food Establishments, adopting the state's recently adopted Texas Food Establishment rules and adding new regulations for mobile food units; providing a severability clause; providing for a penalty clause; providing a savings clause; providing for publication; and setting forth other provisions related thereto.
- F. Consider Ordinance 16-E; amending Chapter 28, Comprehensive Fees, amending Food and Food Establishments permit fees; providing for an effective date; and setting forth other provisions related thereto.

7. REPORTS FROM CITY MANAGER

- A. Review preliminary list of items for next Council meeting.
- B. Items of Community Interest.

8. REPORTS FROM COUNCIL MEMBERS

Pursuant to S.B. No. 1182, City Council Members may make a report or an announcement about items of community interest during a meeting of the governing body. No action will be taken or discussed.

- A. Announcements and requests from Council members.

9. EXECUTIVE SESSION

- A. City Council will meet in Executive Session pursuant to Texas Government Code Section 551.071 consultation between governmental body and its attorney to seek advice of attorney or contemplated litigation or a settlement offer or a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Open Meetings Act.

10. RECONVENE TO OPEN SESSION

- A. Consider action, if any, on item discussed in Executive Session.

11. ADJOURNMENT

I hereby certify that a copy of this notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website: www.alvin-tx.gov, in compliance with Chapter 551, Texas Government Code on MONDAY, MARCH 14, 2016 at 4:00 P.M.



(SEAL)

A handwritten signature in blue ink, appearing to read "Dixie Roberts", is written over a horizontal line.

Dixie Roberts, City Clerk

Removal Date: _____

**** All meetings of the City Council are open to the public, except when there is a necessity to meet in Executive Session (closed to the public) under the provisions of Chapter 551, Texas Government Code. The Council reserves the right to convene into executive session on any of the above posted agenda items that qualify for an executive session by publicly announcing the applicable section of the Open Meetings Act, including but not limited to sections 551.071 (litigation and certain consultation with the attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), or 551.087 (qualifying economic development negotiations).**

**MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
CITY COUNCIL WORKSHOP MEETING
THURSDAY MARCH 3, 2016
6:00 P.M.**

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in Workshop Session at 6:00 P.M. in the Downstairs Conference Room at City Hall, with the following members present: Mayor Paul A. Horn, Councilmembers: Gabe Adame, Terry Droege, Brad Richards, Scott Reed, Roger Stuksa and Adam Arendell.

Staff members present: Sereniah Breland, City Manager; Junru Roland, Assistant City Manager/CFO; Bobbi Kacz, City Attorney; Grace Cruzen, Deputy City Clerk; Robert Lee, Police Chief; Brian Smith, Public Works Director; Brandon Moody, Utility Superintendent; Kacey Roman, Code Supervisor and Shelley Crist, Health Code Inspector.

WORKSHOP ITEM

Review and Discuss Chapter 10 Food and Food Establishments; Chapter 13 Itinerant Merchants and Vendors and Chapter 28 Comprehensive Fees.

Bobbi Kacz, City Attorney, reviewed the changes to Chapters 10, 13 and 28 of the Code of Ordinances. She explained that food vendors were separated out from other types of vendors and placed under Chapter 10, Food and Food Establishments. Council concurred to consider the revised ordinances at the March 17, 2016 council meeting.

ADJOURNMENT

Council member Arendell moved to adjourn the meeting at 6:55 p.m. Seconded by Council member Stuksa; motion carried on a vote of 6 Ayes.

PASSED and APPROVED this _____ day of _____, 2016.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Clerk

MINUTES
CITY OF ALVIN, TEXAS
216 W. SEALY STREET
REGULAR CITY COUNCIL MEETING
THURSDAY MARCH 3, 2016
7:00 P.M.

CALL TO ORDER

BE IT REMEMBERED that, on the above date, the City Council of the City of Alvin, Texas, met in Regular Session at 7:04 P.M. in the Council Chambers at City Hall, with the following members present: Mayor Paul A. Horn, Mayor Pro-tem Adam Arendell, Councilmembers: Gabe Adame, Terry Droege, Brad Richards, Scott Reed, and Roger Stuksa.

Staff members present: Sereniah Breland, City Manager; Junru Roland, Assistant City Manager/CFO; Bobbi Kacz, City Attorney; Grace Cruzen, Deputy City Clerk; Robert Lee, Police Chief; Brian Smith, Public Works Director.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Horn gave the Invocation.

Council member Droege led the Pledge of Allegiance to the American Flag.

Council member Reed led the Pledge to the Texas Flag.

PUBLIC COMMENT

There were no public comments.

PRESENTATIONS

Presentation of the “Recognized Law Enforcement Agency” award from the Texas Police Chief’s Association.

Police Chief Robert Burby from Texas City on behalf of the Texas Police Chief’s Association presented the Alvin Police Department with the “Recognized Law Enforcement Agency” award.

Presentation regarding Alvin Independent School District Bond Package.

Dr. James L. “Buck” Gilcrease, Alvin Independent School District Superintendent gave a presentation on the status of construction projects throughout the school district.

CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION: An item(s) may be removed from the Consent Agenda for full discussion by the request of a member of Council. Item(s) removed will automatically become the first item up for discussion under Other Business.

Approve minutes of the February 18, 2016 City Council regular meeting.

Consider letter of support to the Texas General Land Office; Veterans Land Board; supporting the City of Brazoria’s application for the possible construction of a Veterans Home in the City of Brazoria.

Council member Droege moved to approve the consent agenda as presented. Seconded by Council member Arendell; motion carried on a vote of 6 Ayes.

OTHER BUSINESS:

Consider final plat for Forest Heights Section 6, being a subdivision of 19.173 acres (located northwest of the Heights Road and Brazos Street intersection) of land out of lots 51, 52, 63 and 64 of the Hooper and Wade Survey, Section 23, A-420 and tract 3, Lepper Family Partnership, LTD. CF 97-024069 Deed Records of Brazoria County, Texas.

On January 26, 2016 the Engineering Department received the Final Plat of Forest Heights Section 6 for review. This section consists of 63 single-family residential lots, 3 blocks, and 3 reserves and is located northwest of the Heights Road and Brazos Street intersection. The Forest Heights Subdivision currently consists of four previously platted sections totaling 212 residential lots of which 196 have homes on them. The City Planning Commission unanimously approved the plat at their meeting on February 16, 2016.

Council member Arendell moved to approve the final plat for Forest Heights Section 6, being a subdivision of 19.173 acres (located northwest of the Heights Road and Brazos Street intersection) of land out of lots 51, 52, 63 and 64 of the Hooper and Wade Survey, Section 23, A-420 and tract 3, Lepper Family Partnership, LTD. CF 97-024069 Deed Records of Brazoria County, Texas. Seconded by Council Member Droege; motion carried on a vote of 6 Ayes.

Receive and acknowledge receipt of the Alvin Utility Master Plan prepared by Freese and Nichols, Inc.

At the Workshop on February 4, 2016 the City Council received a presentation by Richard Wheatherly of Freese and Nichols detailing the evaluation of the City's Water and Wasterwater Systems and the Company's findings and recommendations outlined in the 20-year Utility Master Plan. The Utility Master Plan outlines a Capital Improvements Plan (CIP) for both the water and wastewater systems for the next 20 years based on anticipated population growth over that time period. The CIP will serve as a guide in planning for future City budgets. The Plan also recommends several rehabilitation projects on both the water and wastewater systems that should be incorporated into future budgets over the next few years in order to continue the City's current level of service. Appendix A of the report details the water rehabilitation and CIP projects and Appendix B details the wastewater projects.

Council member Reed moved to acknowledge receipt of the Alvin Utility Master Plan prepared by Freese and Nichols, Inc. Seconded by Council Member Droege; motion carried on a vote of 6 Ayes.

Consider amendment to the Public Facilities Agreement (PFA) with Brazoria County for Community Development Block Grant (CDBG) project funding to extend the deadline for CDBG funded park improvement projects to the 31st day of March 2016; and authorize the Mayor to sign.

On February 5, 2015, the City Council authorized a PFA with Brazoria County; in which the City received \$273,000 of CDBG project funding for improvements to the following parks: Rueben Adame Park, National Oak Park, Prairie Dog Park, Talmadge Park, Sealy Park, and Pearson Park.

Per the PFA, the deadline to complete the CDBG-funded projects was September 30, 2015. The Talmadge Park and National Oak Park improvements were not able to be completed by the September 30, 2015 deadline due to the City receiving the preliminary draft of the restroom design for National Oak Park 20 days prior to the deadline; and the need to obtain supplemental funding for the Talmadge Park pavilion – which city council approved on September 3, 2015.

The Brazoria County Commissioner's Court recently approved an amendment to the PFA; which granted the City an extension to complete CDBG funded park improvements through March 31, 2016. As a result, staff is requesting that council also amend the original PFA; extending the deadline to complete these remaining park projects to March 31, 2016.

Should council authorize the amendment to the PFA, the CDBG funded amount of \$13,973 for the Talmadge Park picnic pavilions, and \$154,644.25 for the restroom at National Oak Park will remain available to the City until the extended deadline of March 31, 2016.

Should council elect not to authorize the amendment to the PFA, the City will forfeit the CDBG funds, and will need to seek other funding mechanisms to complete these projects.

Current Status of the Outstanding CDBG Park Improvements:

- *Talmadge Park picnic pavilions are pending final inspection by the City.*
- *The National Oak Park restroom is under construction.*

Council member Arendell moved to approve amendment to the Public Facilities Agreement (PFA) with Brazoria County for Community Development Block Grant (CDBG) project funding to extend the deadline for CDBG funded park improvement projects to the 31st day of March 2016; and authorize the Mayor to sign. Seconded by Council Member Richards; motion carried on a vote of 6 Ayes.

REPORTS FROM CITY MANAGERReview preliminary list of items for next Council meeting.

Ms. Breland reviewed the preliminary list for the March 17, 2016 City Council meeting.

Items of Community Interest.

Mrs. Cruzen reviewed the items of community interest.

REPORTS FROM COUNCIL MEMBERS

Pursuant to S.B. No. 1182, City Council Members may make a report or an announcement about items of community interest during a meeting of the governing body. No action will be taken or discussed.

Announcements and requests from Council members.

Council member Reed, Richards, Adame, Droege, and Stuksa commended the Police Department for receiving the “Recognized Law Enforcement Agency” award from the Texas Police Chief’s Association.

Council member Arendell also commended the Police Departments recognition. He also announced the opening day of Little League Baseball.

ADJOURNMENT

Council member Stuksa moved to adjourn the meeting at 7:29 p.m. Seconded by Council member Arendell; motion carried on a vote of 6 Ayes.

PASSED and APPROVED this _____ day of _____, 2016.

Paul A. Horn, Mayor

ATTEST: _____
Dixie Roberts, City Clerk

PROCLAMATION

WHEREAS, the Department of Housing and Urban Development has initiated the sponsorship of activities during the month of April of each year designed to reinforce the Department's commitment to the concept of Fair Housing and Equal Opportunity; and

WHEREAS, the City of Alvin affirmatively supports the efforts of the Federal Government and the State of Texas to assure equal access to all Americans to rental housing and homeownership opportunities; and

WHEREAS, the City of Alvin welcomes this opportunity to reaffirm its commitment to provide equal access to housing to all of its residents without regard to race, color, religion, sex, disability, familial status, national origin or source of income; and

WHEREAS, the City of Alvin affirmatively supports programs that will educate the public concerning their rights to equal housing opportunities and to participate in efforts with other organizations to assure every person their right to fair housing; and

WHEREAS, the City of Alvin is honored to join the Federal Government, the State of Texas, and local jurisdictions across America in celebrating the rich diversity of our people and the right of all citizens to live where they choose without fear of discrimination.

NOW, THEREFORE, be it resolved, the City of Alvin, does hereby proclaim April as the month to celebrate and honor all efforts which guarantee the right to live free of discriminatory housing practices and proclaim this month as:

“FAIR HOUSING MONTH”

and urge all local officials and public and private organizations to join activities designed to further Fair Housing objectives.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Alvin to be affixed this the 17th day of March, 2016.

Mayor



AGENDA COMMENTARY

Meeting Date: 3/17/2016

Department: Code/Health

Contact: Brian Smith, Public Services Director

Agenda Item: Consider request from Gordon Street Tavern to use the adjoining city-owned parking lot located at Gordon Street and Depot Drive to serve Beer and Food during an event to be held on April 29, 2016; and approve the License Agreement for Use of City Property; and authorize the City Manager to sign.

Type of Item: Ordinance 1st Reading Ordinance 2nd Reading Resolution Public Hearing Discussion & Direction

Summary: Henry Dillman is requesting permission to serve beer and food on Friday, April 29, 2016 in the parking lot adjoining the Gordon Street Tavern that is owned by the City. On the same day, the 42nd Annual Frontier Days Celebration, hosted by the Alvin Rotary Club will be taking place in downtown Alvin. Gordon Street Tavern is required to gain permission from the City of Alvin before a temporary liquor license can be obtained from the Texas Alcoholic Beverage Commission (TABC).

The parking lot will be secured by fencing and four off-duty police officers will be hired for security during the event. Gordon Street Tavern will be open for regular business during this time. A live band will be playing. Food and beer is planned to be served in the parking lot from 8pm to midnight on same date.

The License Agreement for Use of City Property will authorize such activities to be held on city property for the 4 hours specified in the agreement on April 29, 2016.

Funding Expected: Revenue ___ Expenditure ___ N/A **Budgeted Item:** Yes ___ No ___ N/A

Account Number: _____ **Amount:** _____

Legal Review Required: N/A ___ Required **Date Completed:** March 10, 2016

Supporting documents attached:

- License to Use City Property
- Request from Henry Dillman
- Plat

Recommendation: Move to approve the License Agreement for Use of City Property for the 4 hour event on April 29, 2016; and authorize the City Manager to sign.

Reviewed by Department Head, if applicable
Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable
Reviewed by City Manager

**L I C E N S E A G R E E M E N T
FOR USE OF CITY PROPERTY**

THIS LICENSE AGREEMENT ("Agreement") is entered into on this _____ day of _____, 2016 by and between the City of Alvin, a municipal corporation ("City"), and Henry Dillman, dba as Gordon Street Tavern, Inc. ("Licensee").

RECITALS:

- A. The Licensee hereby requests to use a city owned parking lot and agrees to abide by all rules and procedures as set forth by the City.
- B. Licensee has requested the City to issue Licensee a license for the purpose of selling beer and food on the City-owned parking lot located at the corner N. Gordon St. (also known as Business 35) and Depot Boulevard, fronting N. Gordon St.

NOW, THEREFORE, and subject to the terms and conditions below, the City hereby grants to Licensee the non-exclusive use of the City property described and defined below and, in consideration of the license granted to Licensee herein, Licensee agrees to the following:

1. Licensed Property. The licensed property consists of that property highlighted on the map attached as Exhibit A, (the "Licensed Property"). The Licensee accepts the property "as is" and the City makes no warranty or guarantee as to the suitability of said property for the selling of beer and food.

2. Purposes. Licensee may use the Licensed Property for the purposes stated herein and for no other purpose or use without the express written consent of the City.

3. Term of License. This License shall begin on April 29, 2016, at eight p.m. (8 p.m.) and continue until twelve midnight April 29, 2016, (a period of four (4) hours), unless earlier revoked by the City at its sole discretion.

4. Operation Requirements. Licensee agrees to the following:

- a. Licensee shall adhere to all local, state and federal regulations concerning the sale and distribution of food and alcohol.
- b. Licensee shall specifically fence the entire parking lot area, and have four (4) police officers performing security for the specified time noted above.
- c. Licensee and its agents shall maintain the property in a reasonably clean condition, and, at the termination of the license, shall remove all equipment, refuse and any other materials brought onto the property by the Licensee.

- d. Any equipment used on the licensed property shall produce noise levels no greater than the limits permitted by the City's noise ordinance.

5. Qualifications of Licensee. Licensee shall be qualified to perform all activities described in the Recitals and shall perform all activities in compliance with applicable laws and regulations.

6. Indemnification and Insurance. Licensee shall defend, indemnify and hold harmless the City, its officers, agents, employees, successors and assigns from any and all claims, losses, costs, damages, expenses and liabilities, including reasonable attorneys' fees, for or from loss of life or damage or injury to any person or property of any person or entity, including, without limitation, the agents, officers, employees, invitees and licensees of the City, arising out of, connected with or incidental to, either directly or indirectly, Licensee's use of, construction on, or maintenance of the Licensed Property during the term of this License by Licensee, its employees, agents, contractors and subcontractors, licensees or invitees or the exercise by Licensee of any of its rights or the performance by Licensee of any of its obligations. Licensee shall not interfere with or damage existing utility facilities or City infrastructure, on, off, under, or near the Licensed Property, and shall indemnify and reimburse the City for any damages, costs, expenses or liabilities resulting from Licensee's damage or interference therewith. The indemnity obligation contained in this Section shall survive the expiration or earlier termination of this License. In no event, however, shall the foregoing agreement to defend, indemnify and hold harmless the City be deemed to extend to any liability for any environmental condition of the Licensed Property.

Licensee shall, at its own expense, defend the City in all litigation, pay all reasonable attorneys' fees, damages, court costs and other expenses arising out of such litigation or claims incurred in connection therewith; and shall, at its own expense, satisfy and cause to be discharged such judgments as may be obtained against the City, or any of its officers, agents or employees, arising out of such litigation.

Licensee shall not cause or permit any mechanic's or similar liens to be filed against City's property arising from any work done by Licensee, and Licensee hereby agrees to and shall indemnify and defend and hold harmless CITY with respect to any such lien or claim (including any attorneys' fees incurred by City in connection with any such lien or claim). If any mechanic's lien or other lien shall be created or filed against City's property by reason of labor performed by or materials furnished to Licensee, then Licensee shall, within ten (10) days thereafter, at Licensee's sole cost and expense, cause such lien or liens, together with any notices of intention to file mechanic's liens that may have been filed with respect thereto, to be satisfied or discharged of record.

Licensee shall take out and maintain at its own expense during the term of this License, Comprehensive General Liability insurance, wherein the City is named as an additional insured, as shall protect itself, the City, and any entity performing work covered by this License from claims for damage for personal injury, disease, illness or death, including accidental death, as well as from claims for property damages which may arise from operations under this License, whether such operations be by itself or by any entity or by anyone directly or indirectly employed by either of them. The Comprehensive General Liability insurance policy shall have

limits of liability of not less than One Million Dollars (\$1,000,000.00) applicable to the liability assumed by Licensee under this Section 5. Licensee shall provide the City Manager for the city of Alvin, Texas, with a copy of its Certificate of Insurance at the time of execution of this License.

All insurance required hereunder shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Texas, and shall contain a provision whereby the insurer agrees not to cancel the insurance without ten (10) days prior written notice to the City Manager, 216 W. Sealy, Alvin, TX 77511.

7. Events of Default. Each of the following, without limitation, shall constitute an event of default by Licensee:

- a. Licensee fails to keep, perform and observe any promise or agreement contained in this License; or
- b. Any lien is filed against the Licensed Premises because of any act or omission of Licensee.

7.1. Upon the occurrence of any of items (a) through (b) of Section 7, the City may, at its option, exercise any one or more of the following rights and remedies:

- a. deny access to the Licensed Property; or
- b. terminate this License Agreement; or
- c. Exercise any and all additional rights and remedies that the City may have at law or in equity.

7.2. No waiver by the City at any time of any of the terms or conditions of this License Agreement shall be deemed or taken as a waiver at any time thereafter of the same or any other terms or condition herein or of the strict and prompt performance thereof.

No delay, failure or omission of the City to take or to exercise any right, power, privilege or option arising from any default, or subsequent acceptance of any fee then or thereafter accrued shall impair or be construed to impair any such right, power, privilege or option to waive any such default or relinquish thereof, or acquiescence therein and no notice by the City shall be required to restore or revive any option, right, power, remedy or privilege after waiver by the City of default in one or more instances.

No waiver shall be valid against the City unless reduced to writing and signed by an officer of the City duly empowered to execute same.

7.3. Except as otherwise provided herein, neither the City nor Licensee shall be deemed to be in default or breach of this License Agreement by reason of failure to perform any one or more of its obligations hereunder if, while and to the extent that such failure is due to acts of God, acts of government authority, or any other circumstances for which it is not responsible and which are not within its control; provided that

Licensee's obligation to pay fees, additional fees, charges or other money payments required by this License Agreement which have been incurred prior to the force majeure event or following its cessation shall continue.

8. Compliance with Laws. Licensee shall comply with local, state, and federal laws, regulations, ordinances and orders governing the Licensed Property and the activities authorized hereunder, and shall obtain all necessary permits from the City prior to commencement of the activities authorized hereunder.

9. Safety Measures. Licensee shall fence, barricade or take such other measures as are necessary or appropriate to protect the general public from any danger posed by Licensee's activities or Licensee's property under this License. Licensee shall also take measures to protect existing City infrastructure on the property, including but not limited to sidewalks, water and sewer lines, water meters and other utilities.

10. Taxes and Other Charges. Licensee agrees to timely pay all taxes, if applicable, and any other charges or expenses attributable to Licensee's activities.

11. Other Charges Utilities. Licensee agrees to pay for any and all utility charges that may apply to the licensed property including, but not limited to water utilities, waste water and stormwater charges, sanitation, electric and gas and to place any such utilities accounts in its name.

12. Surrender of Premises and Title to Improvements. Licensee shall release to the City possession of the Licensed Property on the time prescribed of this License, whether such cessation be by revocation, termination, expiration or otherwise, promptly and in good condition.

Prior to such surrender of the Licensed Property, Licensee shall restore and repair any and all damage to the Licensed Property caused by, related to or resulting from Licensee's operations thereon, normal wear and tear excepted.

13. Entire Agreement. This License constitutes the entire agreement between the parties as of the date hereof. Any provisions of prior licenses, agreements or documents which conflict in any manner with the provisions of this License are hereby specifically declared void and of no effect.

14. City's Right of Entry. The City of Alvin, its officers and employees, shall be entitled to enter the Licensed Property at any time for all reasonable purposes, including, without limitation, inspection of the Licensee's activities hereunder.

15. Licensing Fee. Licensee shall pay a one-time licensing fee of One Dollar (\$1.00).

16. Right to Assign or Sublet. This license may not be assigned to any person or group, nor sublet in any part for any purpose without written consent from the City.

17. Amendments. Amendments and alterations to this license shall be in writing and directed to the below addresses by hand delivery or via first class U.S. Mail.

To the City of Alvin
City Manager
216 W. Sealy
Alvin, TX 77511

To the Licensee

Name: Henry Dillman
Address: 114 N. Gordon St.
Alvin, Texas 77511
Phone: (281) 968-7402

IN WITNESS WHEREOF, the parties hereto have caused this License to be executed as of the date first set forth above.

CITY OF ALVIN

By: _____
Sereniah Breland, City Manager

Date: _____

The undersigned hereby agrees and consents to the terms and conditions of this License, and further states that s/he has authority to sign on behalf of the Licensee.

Henry Dillman
dba Gordon Street Tavern, Inc.

Signature: _____

Title: _____

Print Name: _____

Date: _____

Attachment: Exhibit A [request and map]

Google Maps



Imagery ©2016 Google, Map data ©2016 Google 100 ft

Google Maps

om it may Concern

: Henry Dillmann, Gordon Street
Scott Helpenstihl, Original Noontime Rotary Club

We are asking permission to obtain a Temporary Liquor License from the Texas Alcoholic Beverage Commission. You permission is required for us to request the permit. Our event will be on Friday night April 29, 2016 from 8pm-12midnight. We will have a live band (Junior Gordon Band) and be serving Beer and Food in the parking lot. The Tavern will be open for regular business as well, but we will not be serving spirits in the parking lot of allowing spirits to be consumed in the parking lot. This is a charitable event for the Rotary and a for profit event for the Tavern.

The parking lot event will be fenced off and 4 officers will be hired for security.

Attached is a map of the event.

Thank you for your consideration


Henry Dillmann
Gordon Street Tavern
114 N. Gordon Street
Alvin, TX 77511
281-968-7402



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Approval Form for Temporary License/Permits
(If Diagram is required, Please Complete Back of Form)

LANDLORD'S APPROVAL

Date/Time Friday April 29 8pm-12midnight

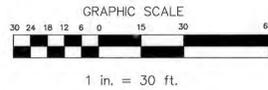
Description of Event Live Music

Address, City & County 114 N. Gordon Street Alvin Brazoria County

Property Owners Name City of Alvin

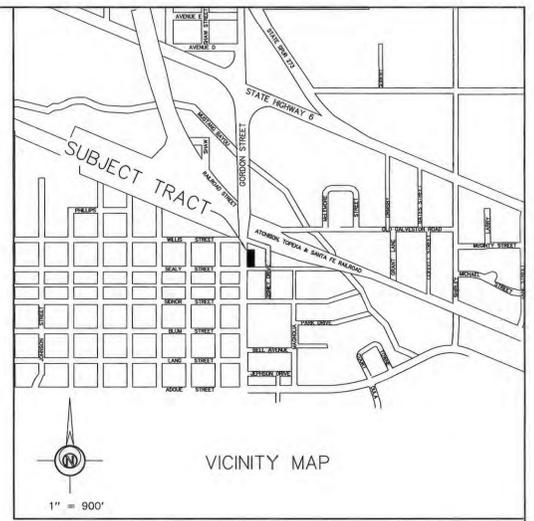
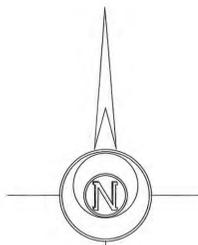
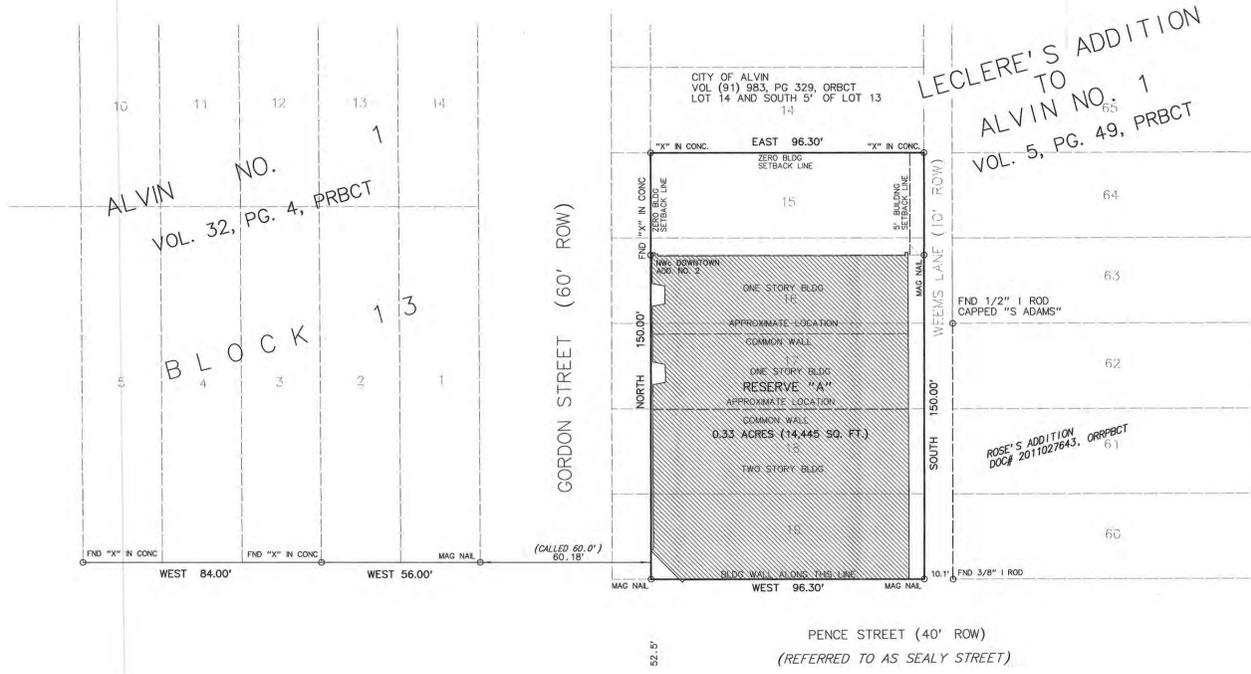
As Landlord of Above Property, I hereby Grant Permission to
Sell/Serve Alcoholic Beverages for the
Above Event.

Landlord's Signature _____



APPROVED BY CITY COUNCIL OF THE CITY OF ALVIN, TEXAS, THIS _____ DAY OF _____, 2012.

Gary Appelt MAYOR
Charles Batty, III AT-LARGE 1
Terry Droege AT-LARGE 2
Scott Reed DISTRICT A
Eileen Cross DISTRICT B
Jim Landrum DISTRICT C
Roger Stuksa DISTRICT D
Greg Bullard DISTRICT E
Michelle Holley-Lira COMMUNITY DEVELOPMENT DIRECTOR
Thomas M. Peebles CITY CLERK



OWNER: SCHNEIDER INVESTMENT GROUP, INC.
 ADDRESS: 13802 COUNTY ROAD 185 ALVIN, TX 77511
 STATE OF TEXAS
 COUNTY OF BRAZORIA
 2012034051 PLAT
 Total Pages: 1 AC

We, SCHNEIDER INVESTMENT GROUP, INC., acting by and through our duly authorized agent, JOSEPH SCHNEIDER, PRESIDENT, owners of the property subdivided in the above and foregoing map of REPLAT OF DOWNTOWN ADDITION NO. 2, being a re-plot of DOWNTOWN ADDITION NO. 2 and all of Lot 15, and the north six feet of Lot 16, Leclere's Addition to Alvin No. 1, do hereby make subdivision of said property, according to the lines, streets, alleys, parks, building lines and easement as shown hereon, and dedicate for public use, the streets, alleys, parks and easements shown hereon, forever, and do hereby waive all claims for damages occasioned by the establishment of grades, as approved for the streets and drainage easements indicated, or occasioned by the alteration of the surface, or any portion of the streets or drainage easements to conform to such grades, and do hereby bind myself, my heirs, successors and assigns, to warrant and defend the title to the land so dedicated.

WITNESS my hand in Alvin (City), Brazoria County, Texas, this 30th day of May, 2012.

Joseph Schneider
 JOSEPH SCHNEIDER

STATE OF TEXAS
 COUNTY OF BRAZORIA:

BEFORE ME, the undersigned authority, on this day personally appeared JOSEPH SCHNEIDER, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of Office, this 30th day of May, 2012.

Kathy Herrmann
 Notary Public in and for the State of Texas.
 My Commission Expires: 6-13-15



We, TEXAS ADVANTAGE COMMUNITY BANK, N.A., MICHAEL R. HOSKINS, PRESIDENT, Owner and Holder of a lien against the above-described property, said lien being evidenced by an Instrument of Record in Document Number 2010028181, Official Records of Real Property, Brazoria County, Texas do hereby in all things subordinate to said subdivision and dedication said lien, and we hereby confirm that we are the present owner of said lien and have not assigned the same, nor any part thereof.

Michael R. Hoskins
 MICHAEL R. HOSKINS, PRESIDENT AND CEO
 TEXAS ADVANTAGE COMMUNITY BANK, N.A.

STATE OF TEXAS
 COUNTY OF BRAZORIA:

BEFORE ME, the undersigned authority, on this day personally appeared MICHAEL R. HOSKINS known to be the person whose name is subscribed to the foregoing instrument and acknowledged, to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

Given under my hand and seal of Office, this 31st day of May, 2012.

Shirley A. Buelow
 Notary Public in and for the State of Texas.
 My Commission expires 12-18-2015



RE-PLAT
 OF
DOWNTOWN ADDITION NO. 2
 1 RESERVE
 MARCH 28, 2012

0.33 ACRES (14,445 SQ. FT.), BEING A RE-PLAT OF DOWNTOWN ADDITION NO. 2, AS RECORDED IN VOLUME 19, PAGES 629 AND 630, PLAT RECORDS, BRAZORIA COUNTY, TEXAS, AND ALL OF LOT 15 AND THE NORTH SIX FEET OF LOT 16, LECLERE'S ADDITION TO THE CITY OF ALVIN, ACCORDING TO THE PLAT AS RECORDED IN VOLUME 5, PAGE 49, PLAT RECORDS, BRAZORIA COUNTY, TEXAS.

NOTES:

- CHAD A. GORMLY HAS NOT PERFORMED AN ABSTRACT OF TITLE ON THE ABOVE SURVEYED TRACTS OF LAND.
- NO PIPELINES (VISIBLE ON THE GROUND) EXIST WITHIN THE BOUNDARIES OF THIS PLAT.
- SOURCE OF BEARING BASED FROM THE SOUTH LINE OF BLOCK 13, ALVIN NO. 1.
- SIDEWALKS SHALL BE CONSTRUCTED AS PART OF THE ISSUANCE OF A BUILDING PERMIT FOR EACH TRACT, IF REQUIRED.
- STORM DRAINAGE IMPROVEMENTS, WHICH MAY INCLUDE DETENTION, SHALL BE PROVIDED AT THE TIME OF BUILDING PERMIT, IF APPLICABLE.
- THE PURPOSE OF THIS REPLAT IS TO ADD THE NORTH SIX FEET OF LOT 16 AND ALL OF LOT 15 TO THE EXISTING PLAT OF DOWNTOWN ADDITION 2 FOR THE PURPOSES OF EXPANDING THE EXISTING RESTAURANT TO THE NORTH WITH AN OUTDOOR DINING AREA.

METES AND BOUNDS
 RESERVE A

0.33 acres of land (14,445 square feet), being a re-plot of Downtown Addition No. 2, as recorded in Volume 19, Pages 629-630, Plat Records, Brazoria County, Texas, and all of Lot 15 and the north six feet of Lot 16, Leclere's Addition to Alvin No. 1, as recorded in Volume 5, Page 49, Plat Records, Brazoria County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a mag nail for the southwest corner of the herein described tract of land and the southwest corner of said Downtown Addition No. 2, at the intersection of the east line of Gordon Street with the north line of Pence Street (Referred to as Sealy Street);

THENCE NORTH, along and with the west line of said Downtown Addition No. 2 and the east line of said Gordon Street, at 114.00 feet pass an "X" found in concrete for the northwest corner of said Downtown Addition No. 2, and continue along and with the east line of Gordon Street, for a total distance of 150.00 to an "X" in concrete at the intersection of the east line of Gordon Street with the north line of said Lot 15 and the south line of Lot 14, also being the northwest corner of the herein described tract of land;

THENCE EAST, along and with the south line of Lot 14 and the north line of Lot 15, a distance of 96.3 feet to an "X" in concrete for the northeast corner of the herein described tract of land, the northeast corner of said Lot 15, the southeast corner of said Lot 14, in the west line of Weems Lane;

THENCE SOUTH, along and with the west line of said Weems Lane and the east line of said Downtown Addition No. 2, and continue along and with the east line of said Downtown Addition No. 2 and the west line of said Weems Lane, for a total distance of 150.00 feet to a mag nail for the southeast corner of the herein described tract of land and the southeast corner of Downtown Addition No. 2, in the north line of Pence Street (commonly referred to as Sealy Street);

THENCE WEST, along and with the south line of said Downtown Addition No. 2 and the north line of Pence Street, a distance of 96.30 feet to PLACE OF BEGINNING and containing 0.33 acres (14,445 square feet) of land.

STATE OF TEXAS
 COUNTY OF BRAZORIA
 I, _____ County Clerk of Brazoria County, Texas, do hereby certify that the written instrument with its authentication was filed for registration in my office on _____, 2012, at _____ o'clock _____ M. in Document Number _____.
 Witness my hand and seal of office, at Angleton, Brazoria County, Texas, the day and date last written above.
 Deputy _____ County Clerk of Brazoria County, Texas.

This is to certify that I, Chad A. Gormly, Registered Professional Land Surveyor No. 5796, of the State of Texas, have plotted the above subdivision from an actual survey on the ground; and that all block corners, lot corners and permanent referenced monuments have been set, that permanent control points will be set at completion of construction and that this plat correctly represents that survey made by me.

WITNESS MY HAND AND SEAL THIS 28th DAY OF MAY, 2012.



Chad A. Gormly, Registered Professional Land Surveyor No. 5796
 P.O. Box 862, Alvin, Texas, 77512-0862, Phone (281) 331-0883

2012034051
 Brazoria County - Joyce Hudson, County Clerk
 05/01/2012 09:00 AM
 Total Pages: 1
 Fee: 63.00
Joyce Hudson

SURVEYOR:
 GORMLY SURVEYING, INC.
 P.O. BOX 862
 ALVIN, TX 77512
 281.331.0883
 CONTACT: CHAD GORMLY, RPLS

OWNER:
 SCHNEIDER INVESTMENT GROUP, INC.
 13802 COUNTY ROAD 185
 ALVIN, TX 77511
 281.585.2272
 CONTACT: JOSEPH SCHNEIDER, PRESIDENT

FILE # 414



AGENDA COMMENTARY

Meeting Date: 3/17/2016

Department: Municipal Court

Contact: Sonya Cates, Court Clerk

Agenda Item: Consider Resolution 16-R-04; appointing Mike Merkel to serve as an Alternate Municipal Court Judge for the Alvin Municipal Court for a two-year term; and approving the Agreement between the City of Alvin and Mike Merkel; and authorize the Mayor to sign.

Type of Item: Ordinance 1st Reading Ordinance 2nd Reading Resolution Public Hearing Discussion & Direction

Summary: Judge Mike Merkel is currently the Justice of the Peace for Precinct 3-1, and would like to continue serving the City of Alvin as the Alternate Municipal Court Judge on a volunteer basis; without compensation or health insurance benefits. As an alternate judge, Judge Merkel will take direction from the Presiding Judge, Donna Starkey for his duties which include, but are not limited to, arraigning prisoners in the City jail. Judge Merkel's current two-year term expires March 20, 2016. Judge Starkey recommends Mike Merkel's appointment.

Article VI Section 2 of the City's charter states that City Council shall have authority to elect an alternate judge of the municipal court.

Funding Expected: Revenue ___ Expenditure ___ N/A **Budgeted Item:** Yes ___ No ___ N/A

Account Number: _____ **Amount:** _____

Legal Review Required: N/A ___ Required **Date Completed:** _____

Supporting documents attached:

- Resolution 16-R-04
- Agreement Between the City of Alvin and Mike Merkel
- Resume
- Job Description

Recommendation: Move to approve Resolution 16-R-04 appointing Mike Merkel to serve as the Alternate Municipal Court Judge; and approving the Agreement and authorizing the Mayor to sign.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

RESOLUTION NO. 16-R-04

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS APPOINTING MIKE MERKEL AS AN ALTERNATE JUDGE FOR THE ALVIN MUNICIPAL COURT FOR A TWO YEAR TERM; APPROVING AN AGREEMENT WITH MIKE MERKEL AS ALTERNATE JUDGE OF THE ALVIN MUNICIPAL COURT; AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, Article VI Section 2 of the Charter of the City of Alvin provides for the Council's authority to elect an Alternate Judge of the Municipal Court;

WHEREAS, the City Council authorizes the City of Alvin to enter into the Agreement with Mike Merkel for the Appointment of the Alternate Municipal Court Judge of the Alvin Municipal Court; **NOW THEREFORE**,

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

Section 1. That the City Council of the City of Alvin hereby approves of the appointment of Mike Merkel as an Alternate Judge of the Municipal Court for a two year term.

Section 2. That the Agreement for the Appointment of Mike Merkel as the Alternate Judge of the Alvin Municipal Court, attached hereto as Exhibit 1 and made a part hereof, is hereby approved, and the Mayor is hereby authorized to execute said contract on behalf of the City of Alvin.

Section 3. This Resolution shall be effective on the date of passage in accordance with the Alvin City Charter.

PASSED AND APPROVED on the ____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor

Court Judge can be removed for cause in accordance with State Law as provided for in such cases.

9. City agrees, with regard to the services provided herein, to indemnify and hold harmless the Alternate Municipal Court Judge for any act, claim or liability for negligence or gross negligence acting on behalf of the City and shall maintain adequate insurance or liability coverage to effectuate this provision.

10. This Contract consists of this document, upon which the parties have affixed their signatures. This Contract as so constituted is the entire agreement between the parties, with respect to the subject matter hereof, and supersedes all other previous statement, communications, or agreements, whether oral or written. No modification, alteration, or waiver of any provision hereof shall be binding upon the parties unless evidenced in writing and signed by both parties.

11. Both the Alternate Municipal Court Judge and the City represent that they have full capacity and authority to grant all rights and assume all obligations that they have granted and assumed under this Contract.

12. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the law of the State of Texas and any venue for any action concerning this Contract shall be in Brazoria County, Texas.

13. In the event one or more of the provisions contained in the Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Contract shall be constructed as if such invalid, illegal, or unenforceable provision had never been contained in it.

This agreement is made, entered into and executed on this _____ day of March, 2016.

ALTERNATE MUNICIPAL COURT JUDGE

CITY OF ALVIN

By: _____

Mike Merkel

By: _____

Paul A. Horn, Mayor

ATTEST:

Dixie Roberts, City Clerk

**CITY OF ALVIN
AN AT-WILL EMPLOYER**

JOB TITLE: MUNICIPAL COURT JUDGE

GENERAL STATEMENT OF JOB

The Municipal Court Judge is under the general direction of the City Council. The Judge hears and determines cases brought before Municipal Court and supervises the operation of the Court. The Judge conducts hearings, applies facts to law, reaches legal conclusions, issues findings and orders, and assesses fines and other legal sentences in excess of maximum amount allowed to be levied under state law. As the Presiding Judge, the Municipal Court Judge assigns and directs the job duties of the Alternate Municipal Court Judge(s).

EXAMPLES OF ESSENTIAL FUNCTIONS

The list of essential functions, as outlined herein, is intended to be representative of the tasks performed within this classification. It is not necessarily descriptive of any one position in the class. The omission of an essential function does not preclude management from assigning duties not listed herein if such functions are a logical assignment to the position.

Supervises the operation of the court by reviewing, verifying and signing orders as needed; default judgments; bond forfeitures; dismissals; and other orders.

Magistrates and arraigns prisoners at the jail by determining probable cause; identifies accused and advises them of their charges; administers magistrate's warning; sets bond; informs defendant of plea options/accepts plea on each charge; set trial dates on not guilty pleas; assess fines and/or other punishment on guilty findings; prepares and provides the court clerk the record of arraignment, the defendant's plea, judgment and other documentation and orders as needed by the clerk; administers collection of fines and court orders; provides to the jailer written orders for release or confinement of the prisoner along with any conditions or requirements.

Determines if claim or suspicion of indigence is valid and conducts indigence hearing in accordance with the law; issues orders appropriate for the case; prepares for the court clerk a report of indigence hearing and other documentation on findings and orders.

Magistrates out of county prisoners by determining the warrant information; identifies prisoner to warrant; informs prisoners of charge(s), location and jurisdiction; administers magistrate's warning; prepares, executes and files documentation.

Alternate Municipal Court Judge(s) remain on standby during assigned periods as the "on call" judge; conduct regular court dockets at the direction of the Presiding Judge; reviews and

MUNICIPAL COURT JUDGE

approves probable cause affidavits and orders for arrest; magistrates juveniles under investigation by Alvin Police; issues protective orders when required under the law.

The Presiding Judge shall be available by telephone and able to respond within one hour of notification to any emergency requiring a judge or magistrate. If the Presiding Judge will be unable to respond within one hour, the Presiding Judge shall notify the police department and Alternate Judges of their duty to respond.

Texas Municipal Courts Education Center requires judges to attend educational seminars each year to keep up with all legislative updates.

Contributes to team effort by performing other related duties as assigned.

KNOWLEDGE, SKILLS AND ABILITIES

Knowledge and ability to analyze and apply legal principles and precedents to local government problems

Knowledge of and ability to apply municipal, state and criminal law in a fair and impartial manner.

Ability to analyze and apply legal principles and precedents to local government problems.

Valid, class "C" Texas Driver's License.

PHYSICAL REQUIREMENTS:

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this Job, the employee is regularly required to talk or hear. The employee is frequently required to reach with hands and arms. The employee is occasionally required to stand; walk; sit and use hands to finger, handle, or feel. The employee must occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job includes peripheral vision and ability to adjust focus.

MUNICIPAL COURT JUDGE

SIGNATURE/APPROVAL

Employee Signature	Print Name	Date
--------------------	------------	------

Human Resources Signature	Print Name	Date
---------------------------	------------	------

Resume

Mike Merkel

Work Experience:

Dade County Public Safety Department. Miami, Florida. October 1975 to May 1977.
Reserve Officer assigned to patrol duties.

Alvin Police Department, Alvin, Texas. August 1977 to December 2012. Chief of Police since September 1991. Past duties included: Patrol Officer, Detective, Patrol and Detective Sergeant, Captain of Operations and Support Services. Special duties included:

- Jan. 87 – Feb. 88. Operation “White Gold”. Galveston, Texas. Federal Bureau of Investigation Special Narcotic Task Force.
- Oct. 82 – Dec. 96. Polygraph Examiner. Alvin Police Department.

Justice of the Peace Pct 3-1. Alvin, Texas. January 2013 – Present. (see attached)

Other Work Experience:

Alvin City Hall , Interim City Manager Dec. 01 – Apr. 02

Alvin Community College. Alvin, Texas. August 1978 to Present.

- Alvin Regional Law Enforcement Academy. Aug. 78 to Present
Instructor
- Criminal Justice Department. Aug. 81 to Dec. 86
Adjunct Instructor Criminal Justice Courses.
- Behavior Sciences Department. Jan. 94 to Present
Adjunct Instructor. Sociology/ Minorities Studies.
- Continuing Education Department. Jan. 90 to Dec. 97
Instructor. Defensive Driving, Cultural Diversity and Ethics.

College of the Mainland Criminal Justice Program. Texas City, Texas. January 1999 to December 2005. Adjunct Instructor. Police Systems and Practices.

Sam Houston State University. Texas Regional Community Policing Institute 2003
Instructor: Homeland Security – Law Enforcement

Houston Fire Department Arson Academy. Houston, Texas. January 1981. Instructor.

Merkel Polygraph Service. Alvin, Texas. February 1983 to December 1996. Polygraph Examiner/Owner.

Guest Lecturer: U of Houston – Clear Lake, Office of the Attorney General, Texas
Department of Health, Texas Cancer Society, Texas Statewide Tobacco Program

Education:

M.S.	Sociology. University of Houston – Clear Lake.	1994
B.A.	Public Administration. University of Houston – Clear Lake. Magna Cum Laude.	1989
A.S.	Business Administration. Alvin Community College.	1991
A.A.S.	Police Administration / Law Enforcement.	1980
Graduate	Federal Bureau of Investigation National Academy, 157 th Session.	1989.
Graduate	University of Houston Polygraph School.	1982
Graduate	University of Houston Advance Polygraph Certification.	1983

Professional Affiliations/Honors:

Texas Commission of Law Enforcement Standards and Education:
Master Certification / Instructor Certification / Crime Prevention Inspector
1998 Law Enforcement Professional Achievement Award
Texas Police Corps Administrative Advisory Board/Texas A&M
Texas Senate Commendation / Senator Buster Brown
Texas Senate Law Enforcement Advisory Board:
- Senator Buster Brown
- Senator Mike Jackson
Advisory Committee/National Institute of Justice Technology Project/Sam Houston State
Advisory Committee/National Center for Rural Law Enforcement/University of Arkansas
Military Academy Selection Board / Congressman Tom Delay
Master of Ceremonies – Regional Special Olympics 2001, 2002
American Cancer Society:
National Legislative Ambassador – Washington DC
Texas Legislative Captain – Austin, Texas
Texas Tobacco Advisory Board – Austin, Texas
Texas School Health Advisory Councils Task Force
Board of Directors / Alcohol and Drug Abuse Council (COSA)
Chairman/Board of Directors / Brazoria County Communities in Schools
Board of Directors/Advisory Board/Bay Area Turning Point Women’s Center
Advisory Board / University of Houston – Clear Lake Criminal Justice Program
Advisory Board / Alvin Community College Criminal Justice Committee
Advisory Board /Alvin Community College Emergency Medical Technology Committee
Advisory Board / Alvin Community College Aerospace Technology Program Committee
University of Houston – Clear Lake:
1991 – Phi Kappa Phi – Honor Society
1994 - Graduate Student of the Year
1995 - Distinguished Alumni of the Year Award
1999 – Top 25 Distinguished Alumni Award – 25th Anniversary

1998 Alvin Community College Distinguished Alumni Award- 50th Anniversary
1998 Professional Achievement Award by Former Texas Governor Bush
2002 Texas Municipal League Public Safety Award
2003 American Cancer Society/Center for Safe Communities Law Enforcement Award
2003 Statewide Law Enforcement Leadership Award/Texas Crime Victim Program
2006 Statewide "Mike Merkel" Award/Texas Crime Victim Program
2007 Greg Abbott awarded the Statewide "Mike Merkel" Leadership Award/Texas Crime Victim Program

Community Service/Achievements:

Elderly Programs: "Are You Okay" Program, Senior Citizen Volunteer Program, Shepherd Program for Citizens with Alzheimer's disease.

Youth Programs: Anti-Tobacco and Alcohol, Guns and Kids Program, Bike Safety Program, Teenage Anti-drinking and Driving Program "ADD EM UP."

Special Needs Programs: Volunteer Handicapped Parking Program, Alvin Citizen's Police Academy Program, Pet Adoption Program.

1978 Medal of Valor Alvin Police Department
1979 Jr. Officer of the Year Alvin Police Department
1981 Honorary Houston Fire Marshal
1983 Community Officer of the Year
1984 Officer of the Year Alvin Chamber of Commerce
1988 Finalist – Officer of the Year Brazoria County 100 Club
1988 Professionalism Award Alvin Police Department
1992 Alvin Rotary Club – Sgt. At Arms
- Paul Harris Fellow Award
1997 Public Employer Award/Former Governor Bush – Texas Governor's Committee on People with Disabilities
2003 Co-Chair/ Brazoria County Day Legislative Event
2011 Alvin Sunrise Rotary Club
2013 Alvin-Manvel Chamber of Commerce "Citizen of the Year"



AGENDA COMMENTARY

Meeting Date: 3/17/2016

Department: Engineering

Contact: Michelle Segovia, City Engineer

Agenda Item: Consider authorizing the Engineering Department to solicit bids for the Venia Property Rentals Development Drainage Project along W. Willis, W. Phillips, and Lee Streets.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: Mayor Horn has requested that the roadside ditches be closed to allow for drainage. This project will include the piping in of the roadside ditch and providing inlets/junction boxes, at appropriate locations, along W. Willis, W. Phillips, and Lee Streets adjacent to the location where Venia Property Rentals is currently constructing 14 homes. The project has an *estimated* cost of \$203,455 and is currently unfunded. The project is required to be bid since the cost exceeds \$50,000. The City of Alvin does not currently require the closing of ditches, and the developer will be installing sidewalks.

Funding Expected: Revenue ___ Expenditure x N/A ___ Budgeted Item: Yes ___ No x N/A ___

Account Number: TBD Amount: _____

Legal Review Required: N/A x Required ___ Date Completed: _____

Supporting documents attached:

- Cost Estimate

Recommendation: Move to approve/deny authorizing the Engineering Department to solicit bids for the Venia Property Rentals Development Drainage Project along W. Willis, W. Phillips, and Lee Streets.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

Venia Property Rentals Development Project

Storm System Cost Estimate

1. Storm Inlets – 14 @ \$3,000.00 = \$42,000.00
2. 15" RCP – 1300' @ \$60.00 = \$78,000.00
3. 18" RCP – 283' @ \$75.00 = \$21,225.00
4. Storm Manholes – 2 @ \$15,000.00 = \$30,000.00
5. Remove Existing Driveway Pipes – 250' @ \$12.00 = \$3,000.00
6. Traffic Control – 1 @ \$5,000.00 = \$5,000.00
7. Mobilization -1 @ \$3,500.00 = \$3,500.00
8. 6" Concrete Driveway – 320 SY @ \$60.00 = \$19,200.00
9. Asphalt Street Repair – 90 SY @ \$17.00 = \$1,530.00

TOTAL - \$203,455.00



AGENDA COMMENTARY

Meeting Date: 3/17/2016

Department: Police Department

Contact: Q.T. Arendell

Agenda Item: Consider Ordinance 16-C amending Chapter 13, Itinerant Merchants and Vendors, providing for the regulation of solicitations in the City by amending Article I, In General, for the purpose of adding definitions, revising regulations for the application and identification cards; deleting Article III, Mobile Vendor, in its entirety; establishing a penalty for violations; providing a savings and severability clause; and setting forth other provisions related thereto.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: Chapter 13 as revised will regulate “non-food” itinerant merchants and vendors. Staff previously identified conflicts in the language and application of Articles I and III of this ordinance. Food sales are now regulated solely in Chapter 10 Food Establishments regardless of their mobility status. After several workshops on this matter and hearing council discussion of such, staff proposes the existing hours of operation remain the same; b) revising the duration of permits to be 90 days, c) maintaining the restriction for vendors operating from a fixed location to be 25 feet from the roadway, and (d) keeping the prohibition of conducting business along the identified roadways.

Funding Expected: Revenue ___ Expenditure ___ N/A ___ **Budgeted Item:** Yes ___ No ___ N/A ___

Account Number: _____ **Amount:** _____

Legal Review Required: N/A ___ Required Date Completed: March 10, 2016

Supporting documents attached:

- Ord 16-C; red-lined
- Ord 16-C; final

Recommendation: Move to approve Ordinance 16-C amending the Itinerant Merchants and Vendors chapter 13.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

ORDINANCE 16-C

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 13, ITINERANT MERCHANTS AND VENDORS, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS, PROVIDING FOR THE REGULATION OF SOLICITATIONS IN THE CITY BY AMENDING ARTICLE I, IN GENERAL, FOR THE PURPOSE OF ADDING DEFINITIONS, REVISING REGULATIONS FOR THE APPLICATION AND IDENTIFICATION CARDS; DELETING ARTICLE III, MOBILE VENDOR, IN ITS ENTIRETY; ESTABLISHING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City Council of the City of Alvin has determined that it is in the best interest for the health, safety and welfare of the citizens of Alvin to adopt this ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS, THAT:

Section 1. That Chapter 13; Itinerant Merchants and Vendors, Article I, In General, of the Code of Ordinances, City of Alvin, Texas; is hereby amended, which shall read as follows:

Chapter 13. ITINERANT MERCHANTS AND VENDORS

ARTICLE I. IN GENERAL

~~“DIVISION I. GENERAL PROVISIONS~~

Sec. 13-1. Definitions.

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

Charitable organization. An organization engaged in the sale of items to raise money for public benevolent purposes. A charitable organization must provide proof of nonprofit, tax-exempt certificate to meet the requirements of this definition.

Commodities, goods or merchandise. ~~means~~ Personal property of any nature whatsoever, but ~~for purposes of this section~~ excludes food and beverages as those commodities are described in Chapter 3, Alcoholic Beverages, and Chapter 10, Food and Food Establishments, City of Alvin, Code of Ordinances.

Craft show/event. ~~shall mean~~ A special event or show where the owner(s) lease or otherwise provides space to individual vendors for the sale of arts, crafts or homemade, non-

consumable goods. For purpose of this article, a craft show must consist of six (6) or more vendors to meet the definitions of a show or event.

Crime involving moral turpitude. ~~means a~~ A conviction of a felony or misdemeanor of such crime defined by state or federal law and such ~~if the~~ crime directly relates to the duties and responsibilities of the licensed occupation, ~~the determination of which shall be made in accordance with V.T.C.A., Government Code § 411.122.~~

Flea market/trade fair. ~~shall mean a~~ A market where the owner(s) leases or otherwise provides spaces to individual vendors for the sale of used and/or secondhand goods, items, materials and merchandise which are usually less than twenty (20) years old, or older items which would not normally derive a value from their age (i.e. not antiques).

Fundraisers. ~~shall mean a~~ An organized activity of the general public for the purpose of raising funds for an institution, political organization or activity with charitable or civil interest.

Itinerant vendor. ~~means a~~ Any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in a business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting goods or merchandise for sale, or for the purpose of taking orders for the sale thereof, who displays, exhibits, sells, or offers for sale such goods, merchandise or services upon or from a truck or other vehicle within the city, or who temporarily hires, rents, leases or occupies any room or space in any building, structure or other enclosure, or vacant lot in the city upon which such business is to be operated or conducted. ~~This term shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.~~ For purposes of this section this term shall not include:

- (1) individuals connected with the trade, sell, or bartering of food and beverages; or
- (2) individuals connected with a charitable organization ~~noncommercial or nonprofit purpose or cause,~~ as that phrase is defined in this section.

Nonprofit organization. Any organization in which no income of such organization is distributable to members, directors, or officers and has a certificate of formation on file with the Secretary of State for Texas.

Peddler. ~~means a~~ Any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in the business in the city of selling, offering for sale, or exhibition for sale of any commodity or service, from house to house or from place to place and not from one established spot. Delivery of the commodity or service is made at the time of sale. Collection of the sales price at time of sale or later is immaterial. ~~This term shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.~~ This term shall not include:

- (1) individuals connected with the trade, sell, or bartering of food and beverages; or
- (2) individuals connected with a charitable organization ~~noncommercial or nonprofit purpose or cause,~~ as that phrase is defined in this section.

Person. ~~shall mean a~~ Any individual, partnership, association, corporation, business entity or enterprise, club or trustee.

Regulatory authority. ~~shall mean a~~ Any municipal officer or department of the City appointed by the city manager to administer this article.

Religious, civic, or charitable solicitation. ~~means~~ The seeking of support or contributions for political, religious, charitable or civic causes, including, without limitation, the promotion of conservation of resources or animals, or advocating a philosophy or religion.

Services. ~~means~~ The performance of labor for the benefit of another or at another's command.

Solicitor or canvasser. ~~means a~~ Any individual, firm, organization or corporation, as well as its representatives, agents and employees, who engages in the business in the city of taking orders for future delivery of commodities or services, or solicits subscriptions, orders, contributions, or any kind of support, for remuneration or gain, from house to house or from place to place. This term shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Temporary business. ~~means~~ The business use of any real property in the city for which definite written arrangements with the owner have not been made for occupancy of the premises for a term in excess of ninety (90) days. Definite arrangements would include, without being limited to, a lease agreement or other document conveying an enforceable right of occupancy.

Sec. 13-2. Exemptions from article.

(a) A peddler, solicitor, canvasser or itinerant vendor conducting activities on the property of another by the express, prior invitation of the owner thereof is exempt from the provisions of this article.

(b) A vendor selling or exhibiting for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in the same within the city is exempt from the provisions of this article.

(c) Charitable organizations and ~~P~~persons conducting religious, civic, or charitable solicitations are exempt from the fee provisions of this article.

(d) A mobile office trailer used in conjunction with the new construction and/or remodeling of a business will be exempt from the requirements of this chapter, when used only for the period of construction.

Sec. 13-3. Unlawful conduct.

It shall be unlawful for any peddler, solicitor, canvasser or itinerant vendor to:

- (1) Conduct a business or related activities in the city without a valid registration certificate, as provided in this article.
- (2) Conduct a business or related activities in the city without a valid identification card, as provided in this article.
- (3) Conduct a business or related activities without visibly displaying the identification card issued to that individual.
- (4) Alter a registration certificate or identification card issued by the city.
- (5) Conduct a business or related activities within the city after the expiration of the registration certificate issued by the city.
- (6) Conduct a business or related activities within the city different than described in the registration statement required by section 13-5.
- (7) Provide false, inaccurate or misleading information in the registration statement.
- (8) Use a vehicle in the conduct of a business or related activities not identified in the registration statement.
- (9) Conduct a business from a location within the city not listed in the registration statement.
- (10) Conduct a business selling, offering for sale, exhibiting for sale, or taking orders for delivery of any commodities, goods, merchandise or services not listed and described in the registration statement.
- (11) Sell, assign or transfer, or attempt to sell, assign or transfer a registration certificate or identification card.
- (12) Conduct a business authorized under a registration certificate issued pursuant to this article, on any public sidewalk, public street right-of-way, or other public property within the city, without written authorization from the city.
- (13) Conduct a business during hours other than those permitted by this article.
- (14) Conduct any activity for which a registration is required by this article at any building or dwelling, or upon any lot, tract or parcel of land, upon which is located, in a conspicuous location, any sign which gives notice that peddlers, solicitors, canvassers or itinerant vendors are prohibited. For the purpose of this section, any sign containing the words “no solicitors,” “no solicitation,” “solicitors prohibited”, [“no trespassing.”](#) or any other phrase of similar meaning, shall constitute notice that peddlers, solicitors, canvassers and itinerant vendors are prohibited at such location.

Sec. 13-4. Penalty.

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine prescribed by section 1-5. Each day's violation shall constitute a separate offense.

~~DIVISION 2. REGISTRATION~~

Sec. 13-5. Application for Registration Certificate and ID Card.

(a) Prior to commencement of business and related activities by any peddler, solicitor, canvasser or itinerant vendor, the applicant shall submit an application for the purpose of obtaining a registration certificate and identification card on a form provided by the chief of police for that purpose, stating the following:

- (1) Name of applicant (person who completes the registration statement).
- (2) Height, weight, gender and hair color of applicant.
- (3) ~~A recent color or black and white photograph of the applicant, no larger than two (2) inches by two (2) inches.~~ Applicant's date of birth
- (4) Social Security Number of applicant.
- (5) Permanent home address, and local address, if different.
- (6) Applicant's driver's license number and state of issuance, if applicable.
- (7) Applicant's cellular and home telephone numbers, if applicable
- (8) Applicant's email address, if applicable
- (9) Name of individual, firm, company or organization represented, if any, and the permanent address and local address of any individual, firm, company or organization represented.
- (10) The last four (4) communities in which business was conducted by the individual, firm, company or organization represented shall be listed, with the period (beginning and ending month/year) business was conducted in each community listed, if applicable.
- (11) Providing the following information:
 - a. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of this state, the corporation shall provide a certified copy of the charter or articles of incorporation; or
 - b. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of a state other than this state, the

corporation shall provide a certified copy of its certificate of authority to do business in this state.

- (12) Description, vehicle license number, and state of registration of each vehicle, if any, that will be operated under the registration certificate being applied for.
- (13) The last and first name, ~~height, weight, sex, hair color, Social Security Number, permanent home address, and driver's license number and state of issuance~~ for each individual who will be involved in business under the registration certificate. ~~If an individual has no driver's license, other identification shall be provided.~~
- ~~(14) A recent color or black and white photograph of each individual who is listed by the applicant, no larger than two (2) inches by two (2) inches.~~
- (14) A description of the business and related activities to be conducted.
- (15) Character and description of commodities, goods, merchandise or services to be offered for sale.
- (16) Location or locations from which the business and other activities will be conducted.
- (17) The term or period during which the business and activities will be conducted, not to exceed ninety (90)~~one hundred eighty (180) days~~. Upon expiration of the one-hundred-eighty-day period, or shorter period indicated by the applicant on the application for permit registration ~~certificate, statement~~, the applicant must complete a new application for registration ~~certificate, statement~~, in accordance with the requirements of this article, if renewal is desired.

(18) Written acknowledgment by applicant of the Texas Sales Tax Remittance laws.

(b) Persons applying only for an identification card for the purpose of transacting business and related activities pursuant to an existing registration certificate shall submit an application for an ID card stating the following:

- (1) Name of applicant (person who completes the registration statement).
- (2) Height, weight, gender and hair color of applicant.
- (3) Applicant's date of birth.
- (4) Social Security Number of applicant.
- (5) Permanent home address, and local address, if different.
- (6) Applicant's driver's license number and state of issuance, if applicable
- (7) Applicant's cellular and home telephone numbers, if applicable

(8) Applicant's email address, if applicable

(9) The City of Alvin registration certificate number (if known), or the Name of individual, firm, company or organization represented.

(c) Every application for registration certificate~~statement~~ shall be accompanied by a non-refundable registration fee established in chapter 28, comprehensive fee ordinance, itinerant merchants and vendors/~~other merchants~~ to compensate the city for the cost of administration of this article. Chapter 28 also establishes ~~a fee established in chapter 28, comprehensive fee ordinance, itinerant merchants and vendors/other merchants shall be charged~~ fees for ID cards, for replacement of a registration certificate and a permit for the conducting of outdoor sales.

Sec. 13-6. Identification of applicant, etc.

Prior to issuance of the registration certificate and identification cards provided for in this article~~division~~, each individual whose name is listed on the application for registration certificate by the applicant shall present his driver's license or other identification in person to the chief of police for verification of the information provided by the applicant.

Sec. 13-7. Statement of felony, etc., convictions.

(a) Prior to issuance of the registration certificate and identification cards provided for in this article~~division~~, the applicant and each individual whose name is listed by the applicant shall answer on the application for registration certificate~~statement~~, or on an attachment thereto, whether he has ever been convicted of a felony or a misdemeanor crime involving moral turpitude.

(b) Prior to issuance of the registration certificate and identification cards provided for in this article~~division~~, the applicant and each individual whose name is listed by the applicant shall, on the application for registration certificate~~statement~~ or attachment thereto, separately list and explain the nature of each and every conviction, if any, whether for felony or misdemeanor offenses, other than conviction for misdemeanor traffic law offenses, and give the state where the conviction occurred and the year of such conviction.

Sec. 13-8. Issuance of registration certificate.

(a) When all prerequisites of this article have been complied with, the chief of police shall initiate appropriate action to process the application. The chief of police shall make an appropriate investigation of an applicant, any person listed by the applicant, and any information provided. The chief of police shall verify the driver's license information on the registration certificate~~statement regarding the driver's license~~ from the applicant's driver's license. If the applicant has no driver's license, other identification shall be provided.

(b) The chief of police shall issue a registration certificate to the applicant authorizing the sale, offer for sale, taking of orders for sale, and exhibition of commodities, goods, merchandise and services within fifteen (15) working days after the applicant has fully complied with all applicable provisions of this article, subject to denial of the registration certificate or identification card as outlined in section 13-14.

Sec. 13-9. Duration; renewal.

(a) The registration certificate and attendant and identification card shall state the effective term, and with the beginning and ending dates, not to exceed one hundred eighty (180) ninety (90) days. Upon expiration, the registration certificate may be renewed upon full compliance with the requirements of this article.

OR

(b) Permits issued under this article are good for sixty (60) days, with no more than three (3) permits issued to a person, business, or location within one calendar year.

Sec. 13-10. Transfer prohibited.

A registration certificate issued under the terms of this article shall be personal to the applicant and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of a registration certificate shall be grounds for revocation of the registration certificate.

Sec. 13-11. Identification cards.

(a) In conjunction with the issuance of a registration certificate, the chief of police shall issue issuance identification cards bearing the applicant's phone number, the name, and height, weight, gender and hair color of the cardholder, the company the Applicant represents and an expiration date the term of the permit, and the identification cards for each individual whose name is listed in the registration statement. The identification card shall state the holder's name, driver's license number and state of nature of the business and related activities. The card shall contain the following disclaimer of any endorsement by the city, to be placed in a conspicuous place upon such card: "The City of Alvin, Texas, does not endorse the product, service or activity promoted by this cardholder."

(b) An identification card issued in accordance with this article shall be personal to the cardholder and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of an identification card shall be grounds for revocation of the registration certificate and the identification cards issued there under.

(c) The chief of police shall issue identification cards with the registration certificate upon payment to the city of a fee as established in chapter 28 for, comprehensive fee ordinance, itinerant merchants and vendors /other merchants.

Sec. 13-12. Display of identification card.

While conducting business covered by the registration certificate, each identification card holder shall conspicuously visibly display the identification card for identification by clipping the identification card to the clothing of the holder, so that it the identification card is in plain view at all times.

Sec. 13-13. Inspection.

All regulatory authorities ~~representative~~ of the city ~~designated by the chief of police~~ shall have the authority to request admission to inspect, at a reasonable time without advance notice, a business operating under a registration certificate issued pursuant to this article, to determine whether the ~~certificate~~permit holder's business and related activities are as represented in the registration ~~certificate~~statement. If such admission is denied, or if the chief of police deems it advisable, the chief of police shall have the authority to obtain a warrant, in accordance with applicable law, for the purpose of allowing the inspection.

Sec. 13-14. Denial of registration certificate or identification card to specified individuals.

(a) The issuance of a registration certificate may be denied if:

- (1) Any violation of this article or other city ordinances or laws relating to the business or related activities to be conducted under the registration certificate applied for has been committed by any individual or individuals who would operate under such registration certificate;
- (2) False, inaccurate, incomplete or misleading information is contained in the application for registration ~~certificate~~statement; ~~or~~
- (3) The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed against him; ~~or~~;
- (~~b~~4) Conviction of a felony or crime involving moral turpitude shall be grounds for the denial of issuance to that individual of an identification card, and/or the removal from the registration ~~certificate~~statement on file with the city of any such person so convicted, and/or the denial of the right to conduct the business covered by such certificate by any person so convicted.

(~~e~~b) Notice of ~~a~~ denial of a registration certificate or denial of an identification card to any individual shall be given in writing, specifically setting forth the reason for such denial and what action will be required before a registration certificate can be issued. Such notice shall be served in person, or by depositing the notice in the United States Mail, addressed to the applicant's local address, if provided, or to the permanent business or home address listed on the application for registration ~~certificate~~statement.

Sec. 13-15. Hours.

(a) Peddlers, canvassers or solicitors conducting business in accordance with this article ~~is~~are permitted to conduct business only between the ~~Business conducted in accordance with this article shall be permitted only between the~~ hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday only.

OR

~~(b) The business activity shall be allowed to conduct business no earlier than 9:00 a.m. and must close no later than 10:00 p.m. Business can only be conducted after dark in areas with adequate lighting that is provided from a source approved by the building official.~~

Sec. 13-16. Distance requirement from the roadway.

Itinerant vendors operating from a fixed location shall not set up within twenty-five (25) feet of the roadway or the public easement.

Sec. 13-17. Parking.

Itinerant vendors shall not impact the required number of parking spaces required for any permanent business, or impact more than five (5%) percent of an existing parking lot.

Sec. 13-18. Exclusion of operation along major arterial roadways and in high congestion areas.

(1) Itinerant vendors shall not be permitted to operate in any congested areas where their operations might impede or inconvenience the public or along major arterial roadways. The major arterial roadways consist of the following:

- (a) North and South Gordon Street (Business 35).
- (b) East and West Highway 6.
- (c) Highway 35 Bypass.
- (d) FM 1462.
- (e) FM 528.
- (f) South Street.
- (g) Mustang Road.
- (h) Johnson Street.

(2) Itinerant vendors shall not operate within any school zone or within three hundred (300) feet of a school during the period when school zone warning lights are in operation.

Sec. 13-~~16~~19. Revocation of certificate.

(a) The city may revoke a registration certificate if:

- (1) Any violation of this article, or any violation of other city ordinances or laws relating to the business or related activities covered by the registration certificate is committed by any individual or individuals operating under the registration certificate during the original term or renewal thereof;
- (2) False, inaccurate, incomplete or misleading information is contained in the registration ~~certificate~~statement; or
- (3) Any certificate holder is convicted of a crime involving moral turpitude.

(b) If a certificate is revoked pursuant to this section, the period of revocation shall extend until the date the certificate so revoked would have otherwise expired. Any itinerant vendor, peddler, solicitor or canvasser having two (2) certificates revoked within any twenty-four (24) month period shall be ineligible to receive any future certificate. ~~for a period of one year following the date of the second revocation.~~

(c) If a registration certificate is revoked pursuant to this section, the registration fees collected are non-refundable.

Sec. ~~13-17~~13-20. Appeal of denial or revocation of registration certificate or identification card.

An applicant or other individual who has been denied a registration certificate or identification card, or who has had a registration certificate revoked, may appeal that action to the city council by submitting a letter to the city clerk's office within ten (10) days of the ~~action complained of~~denial or revocation. A hearing on the denial or revocation will be scheduled for the next ~~regular~~regular available regular city council meeting. The city council will render its decision on the appeal at the meeting during which the appeal is presented, unless additional information is warranted.

~~Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine prescribed by section 1-5. Each day's violation shall constitute a separate offense.~~

Sec. 13-21. Grandfather provision.

~~(1) Fixed location. Preexisting mobile vendors operating at a fixed location prior to the date of enactment of this article shall be exempt from the sanitary facilities in section 13-30 and the location exclusions in section 13-31. However, if the mobile vendor changes ownership or voluntarily moves from its current location, then the mobile vendor will be considered a new vendor and subject to all provisions of this article. A mobile vendor who is forced to move, may retain grandfather status as long as the vendor provides satisfactory documentation to the city explaining the circumstances of the move.~~

~~(2) Permit requirements. Preexisting mobile vendors will be required to obtain an annual permit and shall be exempt from the number and duration of permits in section 13-25. However, failure to renew or any lapse in obtaining the required annual renewal permit shall change the status of the business from an exempt business to a new business and will remove any exemptions granted to the business under this article.~~

Sec. 13-22. Exemptions to distance and/or restricted locations set forth in sections 13-16 and 13-18 and/or exceptions to registration certificates.

(1) Christmas tree vendors are exempt from the exclusion of operation along major arterial roadways between the dates of November 1 and December 25. This exemption applies to

Christmas tree vendors operating from a fixed location and as long as they comply with all of the other provisions of this article.

(2) Civic interest events. Events such as parades, organized holiday festivities and special events on behalf of charitable organizations shall be exempt from distance requirements and location restrictions of this article.

(3) Craft show/event. A craft show/event as defined by this article is exempt from the location restrictions of this article. However, an application for site approval must be submitted by the event coordinator to the building official for approval at least seven (7) days prior to the date of the event or show. The building official will review the proposed location and will approve or disapprove the site on the following basis:

(a) Impact on the surrounding businesses and community;

(b) Adequate facilities to support the show or event; and

(c) Safety of the location based on increased pedestrian and vehicular traffic and parking.

The site application shall include the following:

(a) Event date and proposed location;

(b) A letter from the registered property owner specifying the event coordinator's intended use of the property;

(c) A site layout map showing the number and location of each vendor and facilities available; and

(d) Contact information for the event coordinator.

The event coordinator will be required to submit one application and one ~~permit~~ fee for the event. All vendors transacting business and related activities under the authority of the registration certificate must submit applications as defined in section 13-05(b), however, identification cards will not be issued.

(4) Charitable organization. A "charitable organization" as defined by this article is required to submit an application for a certificate ~~permit~~, but is exempt from the distance and location requirements under this article~~this section~~. Upon submission of supporting documentation of nonprofit status, the charitable organization will be issued a certificate ~~permit~~, but all fees associated with this certificate ~~permit~~ shall be waived.

(5) Fundraisers. "Fundraisers" as defined in this article will not be considered itinerant vendors for the purpose of this article and are not required to get a registration certificate.

(6) Any veterinarian(s) with a valid license issued by the Texas State Board of Veterinary Medical Examiners providing services to the public are exempt from the exclusion of operation along major arterial roadways.

ARTICLE II. RESERVED”

Section 2. That Chapter 13; Itinerant Merchants and Vendors, Article III, Mobile Vendor, of the Code of Ordinances, City of Alvin, Texas; is hereby amended, by deleting Article III, Mobile Vendor in its entirety, which shall read as follows:

~~ARTICLE III. MOBILE VENDOR~~

~~Sec. 13-18. Definitions.~~

~~The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:~~

~~*Charitable organization.* An organization engaged in the sale of items to raise money for public benevolent purposes. A charitable organization must provide proof of a nonprofit, tax-exempt certificate to meet the requirements of this definition.~~

~~*Craft show/event.* A special event or show where the owner(s) leases or otherwise provides space to individual vendors for the sale of arts, crafts or homemade goods. For the purpose of this article, a craft show must consist of six (6) or more vendors to meet the definition of a show or event.~~

~~*Flea market/trade fair.* A market where the owner(s) leases or otherwise provides spaces to individual vendors for the sale of used and/or secondhand goods, items, materials and merchandise which are usually less than twenty (20) years old, or older items which would not normally derive a value from their age (i.e. not antiques).~~

~~*Fundraisers.* An organized activity of the general public for the purpose of raising funds for an institution, political organization or activity with charitable or civil interest.~~

~~*Mobile vendor.* Includes, but is not limited to, a merchant, peddler, hawker, or food vendor that conducts a business from any truck, trailer, manufactured housing, van, cart, bicycle or other type of structure or vehicle capable of being transported on the streets or highways of the city. A mobile vendor also includes any person or business entity not having a fixed place of business in a permanent building in the city which is either owned by the vendor or under lease to such vendor.~~

~~*Person.* Any individual, partnership, association, corporation, business entity or enterprise, club, or trustee.~~

~~*Regulatory authority.* Any municipal officer or department of the city appointed by the city manager to administer this article.~~

~~Sanitary facilities. Toilet or restroom facilities which discharge the sewage effluent and wastewater into an approved holding tank, on-site sewage disposal system, or municipal sewer system.~~

~~Sec. 13-19. Compliance required.~~

~~It shall be unlawful for any mobile vendor or any person as agent or employee of such mobile vendor, to buy, sell, offer or exhibit for the purpose of taking orders for sale thereof, any goods, wares, merchandise, services, photographs, newspapers, magazines, other personal property or animals, at any location in the city without having complied with the provisions of this article.~~

~~Sec. 13-20. Application for permit.~~

~~(a) A written application for a permit under this article shall be obtained from the regulatory authority and must be filed with the regulatory authority during normal business hours, at least forty-eight (48) hours before any business related activity begins. An application for a permit under this article shall contain the following information:~~

- ~~(1) Name, date of birth, and driver's license number of the applicant.~~
- ~~(2) Applicant's permanent address (both physical and mailing addresses) and telephone number.~~
- ~~(3) A brief description of the nature of the business or services and the goods to be sold.~~
- ~~(4) If the applicant is an employee or agent of a company, the name, address and telephone number of the company.~~
- ~~(5) Written authorization from the landowner showing such applicant has permission to use such location.~~
- ~~(6) A copy of the limited sales tax permit issued to the business by the Texas Comptroller's office must be attached to the application.~~

~~(b) Mobile food vendors shall comply with additional application requirements. A written application shall be obtained from the regulatory authority and must include the following items for each operator or employee.~~

- ~~(1) The full name, age, place of birth and present residential and business addresses of the applicant.~~
- ~~(2) The full name of the person or employer of the applicant.~~
- ~~(3) The length of the residence of the applicant in the city and the state, and whether he or she is a citizen of the United States.~~

~~(4) A full personal description of the applicant, including age, height, weight, race, color of eyes, complexion, and color of hair. A photograph of the applicant must also be included. Photograph must be taken within twelve (12) months preceding the date of application.~~

~~(5) Whether the applicant has been charged with or convicted of any felony or misdemeanor, and if so, full information concerning each.~~

~~(6) Whether the applicant has been convicted of any violation of any law in the operation of motor vehicles, and if so, full information concerning each.~~

~~(c) Applicants engaging in the sale of any food or food product, must obtain a food handler's permit and comply with all applicable city, state and federal health codes and ordinances.~~

Sec. 13-21. Permit.

~~Upon completion and presentation of the application, the regulatory authority shall issue a permit in the form of a certificate, which must be kept by the permittee in a place where it is visible by the general public at all times while conducting business. The permit will be issued unless grounds for denial exist under section 13-24 of this article. Such permit shall contain the signature of the issuing officer and shall show the permittee's name, address, kind of goods to be sold, date of issuance, and expiration date of such permit. The regulatory authority shall keep a permanent record of all permits issued.~~

Sec. 13-22. Denial of permit.

~~(1) The regulatory official may deny or suspend a permit for failure to comply with any provision of this article.~~

~~(2) The regulatory authority shall make written notification of denial within forty eight (48) hours from the receipt of the application.~~

Sec. 13-23. Suspension of permit.

~~(1) A permit holder must immediately cease operation and surrender his/her permit upon written notification by the regulatory authority for any violation of this article.~~

~~(2) Operation shall remain suspended pending a hearing before the city council. A request for a hearing must be filed with the regulatory authority within ten (10) days of notice of suspension of permit. If no request for hearing is received, the suspension shall be upheld and the permit shall be revoked.~~

Sec. 13-24. Grounds for revocation or denial of a permit.

~~(1) Fraud, misrepresentation or false statement contained in the application for permit.~~

~~(2) Fraud, misrepresentation or false statement made in the course of carrying on applicant's business.~~

~~(3) Any violation of this article.~~

~~(4) Conviction of any misdemeanor or any felony if the crime directly relates to the conduct of a vendor's business.~~

~~(5) Conducting the business in an unlawful manor or in such a manor as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public.~~

~~Sec. 13-25. Duration and number of permits.~~

~~Permits issued under this article are good for sixty (60) days, with no more than three (3) permits issued to a person, business, or location within one calendar year.~~

~~Sec. 13-26. Permit fee.~~

~~The city shall charge and collect a fee before issuance of a permit, in an amount as set forth in chapter 28 of this Code. If the business activity ceases, closes, or is terminated for any reason prior to the expiration of the permit, there shall be no refund of such fee.~~

~~If the mobile food vendor has obtained a food handler's permit and paid the ascribed fee, the mobile vendor permit fee shall be waived.~~

~~Sec. 13-27. Hours of operation.~~

~~The business activity shall be allowed to conduct business no earlier than 9:00 a.m. and must close no later than 10:00 p.m. Business can only be conducted after dark in areas with adequate lighting that is provided from a source approved by the building official.~~

~~Sec. 13-28. Distance requirement from the roadway.~~

~~No mobile vendor operating from a fixed location can set up within twenty five (25) feet of the roadway or the public easement.~~

~~Sec. 13-29. Parking.~~

~~No mobile vendor may impact the required number of parking spaces required for any permanent business, or impact more than five (5) percent of an existing parking lot.~~

~~Sec. 13-30. Sanitary facilities.~~

~~In the case of a mobile vendor who conducts a business from any fixed location, the regulatory authority shall not issue a permit under this article unless satisfied that adequate toilet facilities are available within fifty (50) feet for use by such vendor's employees and patrons. The~~

~~mobile vendor must have written permission from the owner/lessee of the restrooms for the use of the facilities by the vendor's employees and patrons.~~

~~Sec. 13-31. Exclusion of operation in high congestion areas and along major arterial roadways.~~

~~(1) No mobile vendor shall be permitted to operate in any congested areas or along major arterial roadways, where their operations might impede or inconvenience the public. The major arterial roadways consist of the following:~~

~~(a) North and South Gordon Street (Business 35).~~

~~(b) East and West Highway 6.~~

~~(c) Highway 35 Bypass.~~

~~(d) FM 1462.~~

~~(e) FM 528.~~

~~(f) South Street.~~

~~(g) Mustang Road.~~

~~(h) Johnson Street.~~

~~(2) No mobile vendor may operate within any school zone or within three hundred (300) feet of a school during the period when school zone warning lights are in operation.~~

~~(3) Exemptions.~~

~~(a) Christmas tree vendors are exempt from the exclusion of operation along major arterial roadways between the dates of November 1 and December 25. This exemption applies to Christmas tree vendors operating from a fixed location and as long as they comply with all of the other provisions of this article.~~

~~(b) Any veterinarian(s) with a valid license issued by the Texas State Board of Veterinary Medical Examiners providing services to the public are exempt from the exclusion of operation along major arterial roadways.~~

~~Sec. 13-32. Grandfather provision.~~

~~(1) Fixed location. Preexisting mobile vendors operating at a fixed location prior to the date of enactment of this article shall be exempt from the sanitary facilities in section 13-30 and the location exclusions in section 13-31. However, if the mobile vendor changes ownership or voluntarily moves from its current location, then the mobile vendor will be considered a new vendor and subject to all provisions of this article. A mobile vendor who is forced to move, may~~

~~retain grandfather status as long as the vendor provides satisfactory documentation to the city explaining the circumstances of the move.~~

~~(2) Permit requirements. Preexisting mobile vendors will be required to obtain an annual permit and shall be exempt from the number and duration of permits in section 13-25. However, failure to renew or any lapse in obtaining the required annual renewal permit shall change the status of the business from an exempt business to a new business and will remove any exemptions granted to the business under this article.~~

~~Sec. 13-33. Exceptions and exemptions.~~

~~(1) Civic interest events. Events such as parades, organized holiday festivities and special events on behalf of charitable organizations shall be exempt from distance requirements and restricted locations.~~

~~(2) Craft show/event. A craft show/event as defined by this article is exempt from the location restrictions of this article as set forth in section 13-31. However, an application for site approval must be submitted by the event coordinator to the building official for approval at least seven (7) days prior to the date of the event or show. The building official will review the proposed location and will approve or disapprove the site on the following basis:~~

- ~~(a) Impact on the surrounding businesses and community;~~
- ~~(b) Adequate facilities to support the show or event; and~~
- ~~(c) Safety of the location based on increased pedestrian and vehicular traffic and parking.~~

~~The site application shall include the following:~~

- ~~(a) Event date and proposed location;~~
- ~~(b) A letter from the registered property owner specifying the event coordinator's intended use of the property;~~
- ~~(c) A site layout map showing the number and location of each vendor and facilities available; and~~
- ~~(d) Contact information for the event coordinator.~~

~~The event coordinator will be required to submit one application and one permit fee for the event. However, in addition to the information required in section 13-20, a list of vendors must be included with the application. The vendor information must contain the name and contact information for each vendor.~~

~~(3) Fundraisers. "Fundraisers" as defined in this article will not be considered mobile vendors for the purpose of this article and are not required to get a permit.~~

~~(4) Charitable organization. "Charitable organization" as defined by this article is required to submit an application for a permit, but is exempt from the location and distance requirements under this section. Upon submission of supporting documentation of nonprofit status, the charitable organization will be issued a permit, but all fees associated with this permit shall be waived.~~

~~**Sec. 13-34. Penalty.**~~

~~Any person who shall violate any provision of this article shall be guilty of a misdemeanor, which shall be punishable by a fine prescribed by section 1-5 for each violation and each day of violation of any provision of this article.~~

Section 3. Savings Clause. That except as amended herein all other provisions of Chapter 10 of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Penalty. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty section 1-5 of the Code of Ordinances. Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 6. Publication. The City Clerk of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the Charter of the City of Alvin, Texas and *Chapt. 52, Tex. Loc. Gov't. Code*.

Section 7. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code* and the *City of Alvin Charter*.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on first reading this ____ day of _____, 2015.

PASSED AND APPROVED on second and final reading this ____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor

ORDINANCE 16-C

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 13, ITINERANT MERCHANTS AND VENDORS, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS, PROVIDING FOR THE REGULATION OF SOLICITATIONS IN THE CITY BY AMENDING ARTICLE I, IN GENERAL, FOR THE PURPOSE OF ADDING DEFINITIONS, REVISING REGULATIONS FOR THE APPLICATION AND IDENTIFICATION CARDS; DELETING ARTICLE III, MOBILE VENDOR, IN ITS ENTIRETY; ESTABLISHING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City Council of the City of Alvin has determined that it is in the best interest for the health, safety and welfare of the citizens of Alvin to adopt this ordinance; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS, THAT:

Section 1. That Chapter 13; Itinerant Merchants and Vendors, Article I, In General, of the Code of Ordinances, City of Alvin, Texas; is hereby amended, which shall read as follows:

Chapter 13. ITINERANT MERCHANTS AND VENDORS

ARTICLE I. IN GENERAL

“Sec. 13-1. Definitions.

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

Charitable organization. An organization engaged in the sale of items to raise money for public benevolent purposes. A charitable organization must provide proof of nonprofit, tax-exempt certificate to meet the requirements of this definition.

Commodities, goods or merchandise. Personal property of any nature whatsoever, but excludes food and beverages as those commodities are described in Chapter 3, Alcoholic Beverages, and Chapter 10, Food and Food Establishments, City of Alvin, Code of Ordinances.

Craft show/event. A special event or show where the owner(s) lease or otherwise provides space to individual vendors for the sale of arts, crafts or homemade, non-consumable goods. For purpose of this article, a craft show must consist of six (6) or more vendors to meet the definitions of a show or event.

Crime involving moral turpitude. A conviction of a felony or misdemeanor of such crime defined by state or federal law and such crime directly relates to the duties and responsibilities of the licensed occupation.

Flea market/trade fair. A market where the owner(s) leases or otherwise provides spaces to individual vendors for the sale of used and/or secondhand goods, items, materials and merchandise which are usually less than twenty (20) years old, or older items which would not normally derive a value from their age (i.e. not antiques).

Fundraisers. An organized activity of the general public for the purpose of raising funds for an institution, political organization or activity with charitable or civil interest.

Itinerant vendor. Any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in a business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting goods or merchandise for sale, or for the purpose of taking orders for the sale thereof, who displays, exhibits, sells, or offers for sale such goods, merchandise or services upon or from a truck or other vehicle within the city, or who temporarily hires, rents, leases or occupies any room or space in any building, structure or other enclosure, or vacant lot in the city upon which such business is to be operated or conducted. For purposes of this section this term shall not include:

- (1) individuals connected with the trade, sell, or bartering of food and beverages; or
- (2) individuals connected with a charitable organization as that phrase is defined in this section.

Nonprofit organization. Any organization in which no income of such organization is distributable to members, directors, or officers and has a certificate of formation on file with the Secretary of State for Texas.

Peddler. Any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in the business in the city of selling, offering for sale, or exhibition for sale of any commodity or service, from house to house or from place to place and not from one established spot. Delivery of the commodity or service is made at the time of sale. Collection of the sales price at time of sale or later is immaterial. This term shall not include:

- (1) individuals connected with the trade, sell, or bartering of food and beverages; or
- (2) individuals connected with a charitable organization as that phrase is defined in this section.

Person. Any individual, partnership, association, corporation, business entity or enterprise, club or trustee.

Regulatory authority. Any municipal officer or department of the City appointed by the city manager to administer this article.

Religious, civic, or charitable solicitation. The seeking of support or contributions for political, religious, charitable or civic causes, including, without limitation, the promotion of conservation of resources or animals, or advocating a philosophy or religion.

Services. The performance of labor for the benefit of another or at another's command.

Solicitor or canvasser. Any individual, firm, organization or corporation, as well as its representatives, agents and employees, who engages in the business in the city of taking orders for future delivery of commodities or services, or solicits subscriptions, orders, contributions, or any kind of support, for remuneration or gain, from house to house or from place to place. This term shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Temporary business. The business use of any real property in the city for which definite written arrangements with the owner have not been made for occupancy of the premises for a term in excess of ninety (90) days. Definite arrangements would include, without being limited to, a lease agreement or other document conveying an enforceable right of occupancy.

Sec. 13-2. Exemptions from article.

(a) A peddler, solicitor, canvasser or itinerant vendor conducting activities on the property of another by the express, prior invitation of the owner thereof is exempt from the provisions of this article.

(b) A vendor selling or exhibiting for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in the same within the city is exempt from the provisions of this article.

(c) Charitable organizations and persons conducting religious, civic, or charitable solicitations are exempt from the fee provision of this article.

(d) A mobile office trailer used in conjunction with the new construction and/or remodeling of a business will be exempt from the requirements of this chapter, when used only for the period of construction.

Sec. 13-3. Unlawful conduct.

It shall be unlawful for any peddler, solicitor, canvasser or itinerant vendor to:

- (1) Conduct a business or related activities in the city without a valid registration certificate, as provided in this article.
- (2) Conduct a business or related activities in the city without a valid identification card, as provided in this article.
- (3) Conduct a business or related activities without visibly displaying the identification card issued to that individual.

- (4) Alter a registration certificate or identification card issued by the city.
- (5) Conduct a business or related activities within the city after the expiration of the registration certificate issued by the city.
- (6) Conduct a business or related activities within the city different than described in the registration statement required by section 13-5.
- (7) Provide false, inaccurate or misleading information in the registration statement.
- (8) Use a vehicle in the conduct of a business or related activities not identified in the registration statement.
- (9) Conduct a business from a location within the city not listed in the registration statement.
- (10) Conduct a business selling, offering for sale, exhibiting for sale, or taking orders for delivery of any commodities, goods, merchandise or services not listed and described in the registration statement.
- (11) Sell, assign or transfer, or attempt to sell, assign or transfer a registration certificate or identification card.
- (12) Conduct a business authorized under a registration certificate issued pursuant to this article, on any public sidewalk, public street right-of-way, or other public property within the city, without written authorization from the city.
- (13) Conduct a business during hours other than those permitted by this article.
- (14) Conduct any activity for which a registration is required by this article at any building or dwelling, or upon any lot, tract or parcel of land, upon which is located, in a conspicuous location, any sign which gives notice that peddlers, solicitors, canvassers or itinerant vendors are prohibited. For the purpose of this section, any sign containing the words “no solicitors,” “no solicitation,” “solicitors prohibited”, “no trespassing,” or any other phrase of similar meaning, shall constitute notice that peddlers, solicitors, canvassers and itinerant vendors are prohibited at such location.

Sec. 13-4. Penalty.

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine prescribed by section 1-5. Each day's violation shall constitute a separate offense.

Sec. 13-5. Application for Registration Certificate and ID Card.

(a) Prior to commencement of business and related activities by any peddler, solicitor, canvasser or itinerant vendor, the applicant shall submit an application for the purpose of

obtaining a registration certificate and identification card on a form provided by the chief of police for that purpose, stating the following:

- (1) Name of applicant (person who completes the registration statement).
- (2) Height, weight, gender and hair color of applicant.
- (3) Applicant's date of birth
- (4) Social Security Number of applicant.
- (5) Permanent home address, and local address, if different.
- (6) Applicant's driver's license number and state of issuance, if applicable.
- (7) Applicant's cellular and home telephone numbers, if applicable
- (8) Applicant's email address, if applicable
- (9) Name of individual, firm, company or organization represented, if any, and the permanent address and local address of any individual, firm, company or organization represented.
- (10) The last four (4) communities in which business was conducted by the individual, firm, company or organization represented shall be listed, with the period (beginning and ending month/year) business was conducted in each community listed, if applicable.
- (11) Providing the following information:
 - a. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of this state, the corporation shall provide a certified copy of the charter or articles of incorporation; or
 - b. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of a state other than this state, the corporation shall provide a certified copy of its certificate of authority to do business in this state.
- (12) Description, vehicle license number, and state of registration of each vehicle, if any, that will be operated under the registration certificate being applied for.
- (13) The last and first name for each individual who will be involved in business under the registration certificate.
- (14) A description of the business and related activities to be conducted.

- (15) Character and description of commodities, goods, merchandise or services to be offered for sale.
- (16) Location or locations from which the business and other activities will be conducted.
- (17) The term or period during which the business and activities will be conducted, not to exceed ninety (90) days. Upon expiration of the ninety day period, or shorter period indicated by the applicant on the application for registration certificate, the applicant must complete a new application for registration certificate, in accordance with the requirements of this article, if renewal is desired.
- (18) Written acknowledgment by applicant of the Texas Sales Tax Remittance laws.

(b) Persons applying only for an identification card for the purpose of transacting business and related activities pursuant to an existing registration certificate shall submit an application for an ID card stating the following:

- (1) Name of applicant (person who completes the registration statement).
- (2) Height, weight, gender and hair color of applicant.
- (3) Applicant's date of birth.
- (4) Social Security Number of applicant.
- (5) Permanent home address, and local address, if different.
- (6) Applicant's driver's license number and state of issuance, if applicable
- (7) Applicant's cellular and home telephone numbers, if applicable
- (8) Applicant's email address, if applicable
- (9) The City of Alvin registration certificate number (if known), or the Name of individual, firm, company or organization represented.

(c) Every application for registration certificate shall be accompanied by a non-refundable registration fee established in chapter 28, comprehensive fee ordinance, itinerant merchants and vendors to compensate the city for the cost of administration of this article. Chapter 28 also establishes fees for ID cards, replacement of a registration certificate and a permit for the conducting of outdoor sales.

Sec. 13-6. Identification of applicant.

Prior to issuance of the registration certificate and identification cards provided for in this article, each individual whose name is listed on the application for registration certificate by the applicant shall present his driver's license or other identification in person to the chief of police for verification of the information provided by the applicant.

Sec. 13-7. Statement of criminal convictions.

(a) Prior to issuance of the registration certificate and identification cards provided for in this article, the applicant and each individual whose name is listed by the applicant shall answer on the application for registration certificate, or on an attachment thereto, whether he has ever been convicted of a felony or a misdemeanor crime involving moral turpitude.

(b) Prior to issuance of the registration certificate and identification cards provided for in this article, the applicant and each individual whose name is listed by the applicant shall, on the application for registration certificate or attachment thereto, separately list and explain the nature of each and every conviction, if any, whether for felony or misdemeanor offenses, other than conviction for misdemeanor traffic law offenses, and give the state where the conviction occurred and the year of such conviction.

Sec. 13-8. Issuance of registration certificate.

(a) When all prerequisites of this article have been complied with, the chief of police shall initiate appropriate action to process the application. The chief of police shall make an appropriate investigation of an applicant, any person listed by the applicant, and any information provided. The chief of police shall verify the driver's license information on the registration certificate from the applicant's driver's license. If the applicant has no driver's license, other identification shall be provided.

(b) The chief of police shall issue a registration certificate to the applicant authorizing the sale, offer for sale, taking of orders for sale, and exhibition of commodities, goods, merchandise and services within fifteen (15) working days after the applicant has fully complied with all applicable provisions of this article, subject to denial of the registration certificate or identification card as outlined in section 13-14.

Sec. 13-9. Duration; renewal.

(a) The registration certificate and identification card shall state the effective term, with the beginning and ending dates, not to exceed ninety (90) days. Upon expiration, the registration certificate may be renewed upon full compliance with the requirements of this article.

Sec. 13-10. Transfer prohibited.

A registration certificate issued under the terms of this article shall be personal to the applicant and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of a registration certificate shall be grounds for revocation of the registration certificate.

Sec. 13-11. Identification cards.

(a) In conjunction with the issuance of a registration certificate, the chief of police shall issue identification cards bearing the applicant's phone number, the name, height, weight, gender and

hair color of the cardholder, the company the Applicant represents and an expiration date. The card shall contain the following disclaimer of any endorsement by the city, to be placed in a conspicuous place upon such card: "The City of Alvin, Texas, does not endorse the product, service or activity promoted by this cardholder."

(b) An identification card issued in accordance with this article shall be personal to the cardholder and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of an identification card shall be grounds for revocation of the registration certificate and the identification cards issued there under.

(c) The chief of police shall issue identification cards with the registration certificate upon payment to the city of a fee as established in chapter 28 for itinerant merchants and vendors.

Sec. 13-12. Display of identification card.

While conducting business covered by the registration certificate, each identification card holder shall conspicuously display the identification card so that it is in plain view at all times.

Sec. 13-13. Inspection.

All regulatory authorities of the city shall have the authority to request admission to inspect, at a reasonable time without advance notice, a business operating under a registration certificate issued pursuant to this article, to determine whether the certificate holder's business and related activities are as represented in the registration certificate. If such admission is denied, or if the chief of police deems it advisable, the chief of police shall have the authority to obtain a warrant, in accordance with applicable law, for the purpose of allowing the inspection.

Sec. 13-14. Denial of registration certificate or identification card to specified individuals.

- (a) The issuance of a registration certificate may be denied if:
- (1) Any violation of this article or other city ordinances or laws relating to the business or related activities to be conducted under the registration certificate applied for has been committed by any individual or individuals who would operate under such registration certificate;
 - (2) False, inaccurate, incomplete or misleading information is contained in the application for registration certificate;
 - (3) The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed against him; or
 - (4) Conviction of a felony or crime involving moral turpitude shall be grounds for the denial of issuance to that individual of an identification card, and/or the removal from the registration certificate on file with the city of any such person so convicted, and/or the denial of the right to conduct the business covered by such certificate by any person so convicted.

(b) Notice of denial of a registration certificate or denial of an identification card to any individual shall be given in writing, specifically setting forth the reason for such denial and what action will be required before a registration certificate can be issued. Such notice shall be served in person, or by depositing the notice in the United States Mail, addressed to the applicant's local address, if provided, or to the permanent business or home address listed on the application for registration certificate.

Sec. 13-15. Hours.

(a) Peddlers, canvassers or solicitors conducting business in accordance with this article are permitted to conduct business only between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday only.

Sec. 13-16. Distance requirement from the roadway.

Itinerant vendors operating from a fixed location shall not set up within twenty-five (25) feet of the roadway or the public easement.

Sec. 13-17. Parking.

Itinerant vendors shall not impact the required number of parking spaces required for any permanent business, or impact more than five (5%) percent of an existing parking lot.

Sec. 13-18. Exclusion of operation along major arterial roadways and in high congestion areas.

(1) Itinerant vendors shall not be permitted to operate in any congested areas where their operations might impede or inconvenience the public or along major arterial roadways. The major arterial roadways consist of the following:

- (a) North and South Gordon Street (Business 35).
- (b) East and West Highway 6.
- (c) Highway 35 Bypass.
- (d) FM 1462.
- (e) FM 528.
- (f) South Street.
- (g) Mustang Road.
- (h) Johnson Street.

(2) Itinerant vendors shall not operate within any school zone or within three hundred (300) feet of a school during the period when school zone warning lights are in operation.

Sec. 13-19. Revocation of certificate.

(a) The city may revoke a registration certificate if:

- (1) Any violation of this article, or any violation of other city ordinances or laws relating to the business or related activities covered by the registration certificate is committed by any individual or individuals operating under the registration certificate during the original term or renewal thereof;
- (2) False, inaccurate, incomplete or misleading information is contained in the registration certificate; or
- (3) Any certificate holder is convicted of a crime involving moral turpitude.

(b) If a certificate is revoked pursuant to this section, the period of revocation shall extend until the date the certificate so revoked would have otherwise expired. Any itinerant vendor, peddler, solicitor or canvasser having two (2) certificates revoked within any twenty-four (24) month period shall be ineligible to receive any future certificate.

(c) If a registration certificate is revoked pursuant to this section, the registration fees collected are non-refundable.

Sec.13-20. Appeal of denial or revocation of registration certificate or identification card.

An applicant or other individual who has been denied a registration certificate or identification card, or who has had a registration certificate revoked, may appeal that action to the city council by submitting a letter to the city clerk's office within ten (10) days of the denial or revocation. A hearing on the denial or revocation will be scheduled for the next available regular city council meeting. The city council will render its decision on the appeal at the meeting during which the appeal is presented, unless additional information is warranted.

Sec. 13-21. Exemptions to distance and/or restricted locations set forth in sections 13-16 and 13-18 and/or exceptions to registration certificates.

(1) Christmas tree vendors are exempt from the exclusion of operation along major arterial roadways between the dates of November 1 and December 25. This exemption applies to Christmas tree vendors operating from a fixed location and as long as they comply with all of the other provisions of this article.

(2) Civic interest events. Events such as parades, organized holiday festivities and special events on behalf of charitable organizations shall be exempt from distance requirements and location restrictions of this article.

(3) Craft show/event. A craft show/event as defined by this article is exempt from the location restrictions of this article. However, an application for site approval must be submitted by the event coordinator to the building official for approval at least seven (7) days prior to the date of the event or show. The building official will review the proposed location and will approve or disapprove the site on the following basis:

- (a) Impact on the surrounding businesses and community;
- (b) Adequate facilities to support the show or event; and

- (c) Safety of the location based on increased pedestrian and vehicular traffic and parking.

The site application shall include the following:

- (a) Event date and proposed location;
- (b) A letter from the registered property owner specifying the event coordinator's intended use of the property;
- (c) A site layout map showing the number and location of each vendor and facilities available; and
- (d) Contact information for the event coordinator.

The event coordinator will be required to submit one application and one (1) fee for the event. All vendors transacting business and related activities under the authority of the registration certificate must submit applications as defined in section 13-5(b), however, identification cards will not be issued.

(4) Charitable organization. A "charitable organization" as defined by this article is required to submit an application for a certificate, but is exempt from the distance and location requirements under this article. Upon submission of supporting documentation of nonprofit status, the charitable organization will be issued a certificate, but all fees associated with this certificate shall be waived.

(5) Fundraisers. "Fundraisers" as defined in this article will not be considered itinerant vendors for the purpose of this article and are not required to get a registration certificate.

(6) Any veterinarian(s) with a valid license issued by the Texas State Board of Veterinary Medical Examiners providing services to the public are exempt from the exclusion of operation along major arterial roadways.

ARTICLE II. RESERVED”

Section 2. That Chapter 13; Itinerant Merchants and Vendors, Article III, Mobile Vendor, of the Code of Ordinances, City of Alvin, Texas; is hereby amended, by deleting Article III, Mobile Vendor in its entirety.

Section 3. Savings Clause. That except as amended herein all other provisions of Chapter 13 of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such

section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Penalty. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty section 1-5 of the Code of Ordinances. Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 6. Publication. The City Clerk of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the Charter of the City of Alvin, Texas and *Chapt. 52, Tex. Loc. Gov't. Code*.

Section 7. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code* and the *City of Alvin Charter*.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on this _____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor



AGENDA COMMENTARY

Meeting Date: 3/17/2016

Department: Public Services/Code Compliance **Contact:** Brian Smith/Kacey Roman

Agenda Item: Consider Ordinance 16-D; amending Chapter 10, Food And Food Establishments, adopting the state's recently adopted Texas Food Establishment rules and adding new regulations for mobile food units; providing for a penalty clause; providing for publication; and setting forth other provisions related thereto.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: The State of Texas formally adopted the new Texas Food Establishment Rules (TFER) on October 11, 2015. These are the minimum standards that the State Health Inspectors are tasked with enforcing, and are based on the 2013 U. S. Food and Drug Administration (FDA) Model Food Code. These rules are located in Chapter 228 of the Texas Administrative Code. Changes to the existing ordinance include:

- Definitions – have been changed to reflect the new TFER language.
- Appeal Process of Inspections – allows for appeals of the Health Inspections
- Mobile Food Units –
 - Removed location/major roadway restrictions, and allows licensed mobile food units to park on private property with owner's permission, or public property with written permission from the City Manager.
 - Cannot set up within 25 feet of the roadway or public easement.
 - If located within 200 feet of a residence, the hours of operation are restricted from 7:00 am until 9:00 pm.

Funding Expected: Revenue ___ Expenditure ___ N/A x **Budgeted Item:** Yes ___ No ___ N/A x

Account Number: _____ **Amount:** _____

Legal Review Required: N/A ___ Required ___ **Date Completed:** March 14, 2016

Supporting documents attached:

- Ordinance 16-D; red-lined
- Ordinance 16-D; final

Recommendation: Move to approve Ordinance 16-D; amending Chapter 10, Food And Food Establishments, adopting the state's recently adopted Texas Food Establishment Rules and adding new regulations for mobile food units; providing for a penalty; and setting forth other provisions related thereto.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

ORDINANCE NO. 16-D

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS AMENDING CHAPTER 10, FOOD AND FOOD ESTABLISHMENTS, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS, ADOPTING THE STATE'S RECENTLY ADOPTED TEXAS FOOD ESTABLISHMENT RULES AND ADDING NEW REGULATIONS FOR MOBILE FOOD UNITS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Alvin City Council finds that food and food establishment regulations should be amended to comply with recently adopted state law and that the regulations addressing these concerns are in the best interest of the health, safety, and welfare of the citizens of Alvin, Texas, and

WHEREAS, the Alvin City Council also wishes to establish regulations for Mobile Food Units for the support of small business start-ups, diverse cuisine options, and tourism inducing environments as well as the enjoyment of the citizens of Alvin.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS:

Section 1. That certain sections of Chapter 10; Food And Food Establishments, of the Code of Ordinances, City of Alvin, Texas; are hereby amended, which said sections shall read as follows:

Chapter 10. FOOD AND FOOD ESTABLISHMENTS

ARTICLE I. IN GENERAL

Sec. 10-1. State regulations adopted.

The City of Alvin adopts by reference the most current version of the Texas Food Establishment Rules promulgated by the Texas Department of State Health Services with an effective date of October 11, 2015, and set forth in 25 Texas Administrative Code, Chapter 228, Subchapters A - J. The Texas Food Establishment Rules shall be considered incorporated herein by reference for all purposes. From and after enactment of this chapter, the Texas Food Establishment Rules shall govern the regulation of food and food establishments in the City of Alvin in addition to any other requirements set forth in this chapter and other applicable laws and regulations. Any subsequent revisions or changes to the Texas Food Establishment Rules shall automatically become a part of this chapter unless council action is required by law. A copy of the Texas Food Establishment Rules shall be on file in the office of the city clerk.

Sec. 10-2. Definitions.

For purposes of this chapter, the words, terms and phrases set forth in the Texas Food Establishment Rules as definitions shall have the meanings set forth therein. Additionally, the following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:

Authorized agent or employee means an employee(s) of the City of Alvin.

Food Establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption as follows:

- (A) a restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, ending location, (machine), self-service food market, conveyance used to transport people, institution, or food bank;
- (B) an establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout order, or delivery service that is provided by common carriers; and
- (C) includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off premises; and regardless of whether there is a charge for the food.
- (D) food establishment does not include an establishment that offers only prepackaged foods that are not time / temperature controlled for safety food, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold or offered for human consumption, a Bed and Breakfast Limited facility as defined in the TFER, or a private home that receives catered or home-delivered food.

Temporary Food Establishment is a food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Mobile Food Unit (MFU) means a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not include a stand or a booth. A roadside food vendor is classified as a MFU.

Mobile Food Unit – additional permit means a mobile food unit operated by an existing permitted food establishment that provides an additional source of food service and also includes multiple mobile food units operated by the same owner. The owner is legally considered to be

the person holding the food establishment's permit or the food permit(s) for the multiple mobile food units.

Non-profit organization means an incorporated organization which exists for educational or charitable reasons, and from which its shareholders or trustees do not benefit financially. Non-profit status must be verified by submission of supporting documentation, such as an IRS form 501c.

Regulatory authority means the City of Alvin, Texas.

Texas Food Establishment Rules ("TFER") means the rules promulgated by the Texas Department of State Health Services with an effective date of October 11, 2015, and set forth in 25 Texas Administrative Code, Chapter 228, Subchapters A - J, and as such rules may be hereafter amended.

Sec. 10-3. Application of chapter.

(a) This chapter shall apply to all areas within the corporate limits of the city.

(c) Persons or organizations whose food services are regulated and regularly inspected by another federal or state governmental entity are required to comply with this chapter.

Sec. 10-4. Enforcement.

This chapter shall be enforced by the city's Code Compliance Department.

Sec. 10-5. Penalty.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00). Each day of violation of this chapter shall constitute a separate offense. Prosecution in municipal court shall be in addition to other remedies provided in this chapter, by law, or in equity.

Sec. 10-6. Injunction.

(a) If it appears that a person has violated, is violating, or threatens to violate this chapter, the city may institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.

(b) The city may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that:

- (1) A person is violating or threatening to violate this chapter; and
- (2) The violation or threatened violation creates an immediate threat to the health and safety of the public.

Secs. 10-7 - 10-9. Reserved.

ARTICLE II. PERMIT

Sec. 10-10. Required.

A food establishment, temporary food establishment, mobile food unit, child care center or group residence that provides food service shall only be operated with a valid permit issued by the city. Permits are not transferable from place to place or person to person. A valid permit shall be posted in public view in every establishment. Each and every food establishment, whether under one roof or not, shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter.

Sec. 10-11. Duration.

Permits shall be issued annually and shall extend from the date of issuance or renewal, as applicable. Annual renewal applications must be submitted at least thirty (30) days prior to the expiration date of the permit. A permit shall be issued only if the establishment is in complete compliance with this chapter.

A Mobile Food Unit (commonly known as a 'food truck') that operates for a period of no more than three (3) consecutive days in conjunction with a single event or celebration may obtain a Temporary Food Establishment permit.

Sec. 10-12. Fees.

(a) Before any permit shall be issued under this chapter, the applicant shall pay the applicable fees set forth in chapter 28 of this Code.

(b) The re-inspection fee set forth in chapter 28 of this Code shall apply in cases where reinspection is deemed necessary by the City's health official/code compliance officer.

(c) Non-profit organization as defined by this article is required to submit an application for a permit, and upon submission of supporting documentation of nonprofit status, the organization will be issued a permit, but all fees associated with this permit shall be waived.

Sec. 10-13. Refunds/proration.

Permit fees are not refundable and shall not be prorated.

Sec. 10-14. Suspension.

The city may suspend any permit to operate a food establishment, temporary food establishment, and/or mobile food unit, if the permit holder does not comply with the requirements of this chapter and the violation creates an immediate threat to the health and safety of the public. Suspension is effective upon written notice, and service operations shall immediately cease. Whenever a permit is suspended, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is

suspended and inform them of the opportunity for a hearing before the City Manager. If the permit holder requests a hearing, they shall file their written request for a hearing with the city clerk within ten (10) days following service of such notice of suspension. If a request for hearing is filed, a hearing shall be scheduled within ten (10) days of the city's receipt of such request. If no request for hearing is filed within the ten (10) day period, the suspension of the permit is sustained. The city's health official/code compliance officer may end the suspension at any time if reasons for suspension no longer exist.

Sec. 10-15. Revocation.

The city may revoke a permit for serious or repeated violation(s) of any of the requirements of this chapter or for interference with the health official/code compliance officer in the performance of his/her duties. Prior to revocation, the city shall notify the permit holder or the person in charge of the food establishment in writing of the reason(s) for which the permit is subject to revocation and inform them of the opportunity for a hearing before the City Manager. If the permit holder requests a hearing, they shall file their written request for a hearing with the city clerk within ten (10) days following service of such notice of revocation. If a request for hearing is filed, a hearing shall be scheduled within thirty (30) days of the city's receipt of such request. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

Sec. 10-16. Service of notice.

A notice provided for in this article is properly served when it is delivered to the permit holder or the person in charge of the establishment or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder or when it is delivered by the city in person to the last known address of the permit holder.

Sec. 10-17. Hearings.

The hearings provided for in this article shall be conducted by the City Manager. Based upon the recorded evidence of such hearing, the City Manager shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder, and a copy shall be filed with the city clerk.

Sec. 10-18. Appeals.

Any person aggrieved by a decision of the City Manager made under this article may appeal such decision to the city council by filing written notice of such appeal with the city clerk within ten (10) days of the date of the City Manager's written report/decision. The city council shall conduct a hearing de novo and its decision shall be final and binding.

Sec. 10-19. Application for a new permit after revocation.

The permit holder that has been revoked must wait 180 days after the final date of the revocation decision before making written application for a new permit.

ARTICLE III. INSPECTIONS

Sec. 10-20. Frequency.

Inspections shall be performed as often as necessary to enforce this chapter.

Sec. 10-21. Access.

The authorized agent of the regulatory authority, after proper identification, shall be permitted to enter any food establishment, mobile food unit or establishment for which a permit has been issued at any reasonable time for the purpose of making inspections to determine compliance with this chapter. The employees/agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received or used or to persons employed by the establishment.

Sec. 10-22. Reports.

Whenever an inspection of a food establishment, mobile food unit or other establishment is made, the findings shall be recorded on the inspection report form. The inspection report form shall reference, by section number, the section violated and shall state the correction to be made. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The complete inspection report shall be prominently displayed in the establishment.

Sec. 10-23. Correction of violations.

The inspection form shall specify a reasonable period of time to correct the violations and such violations must be corrected within the specified period; provided, however that (i) if an imminent health hazard exists the establishment, including a mobile food unit, shall immediately cease food service operations and operations shall not be resumed until authorized by the city;; and (ii) all violations at temporary food establishments shall result in cessation of temporary food service operations. The establishment or mobile food unit shall not resume operations until such time as a reinspection determines that the condition(s) responsible for the requirement to cease operations no longer exists. The city shall offer to reinspect the establishment within a reasonable time.

Secs. 10-24 - 10-29. Reserved.

ARTICLE IV. CONSTRUCTION, REMODELING AND CONVERSION

Sec. 10-30. Plans.

Two (2) sets of properly prepared plans and specifications for each construction, remodeling or alteration of a food establishment shall be submitted to the Code Compliance Department prior to any on-site construction. The plans must be drawn to scale no smaller than one-eighth (1/8) inch and shall consist of a plot plan, floor plan, foundation plan, structural plan, plumbing

plan, elevation plan, wall section, engineer's scale and survey (if required by applicable law), mechanical and electrical details, and health equipment detail with elevations.

Sec. 10-31. Other code requirements.

A building permit shall be required for construction, alteration, remodeling or conversion of a food establishment in accordance with the International Building Code adopted by the city. Any construction, alteration, remodeling, or conversion of a food establishment shall comply with all applicable federal and state laws and codes and regulations of the city. To the extent of a conflict between or among the provisions of this chapter and other codes or ordinances of the city, the more restrictive provision shall control.

Sec. 10-32. Ownership of food establishment.

(a) When an existing food establishment is purchased and the purchase does not include the property or the structure but includes the rental or lease of space and equipment, the city requires that the person who operates the food establishment obtain a valid food establishment's permit. The person who applies for the food establishment's permit is considered, legally, to be the owner.

(b) The person who is registered on the food establishment's permit is the responsible party for the property, premises, structure and complete operating services. The operator of the food establishment is the ultimate responsible party, and the conditions under which the food establishment was leased or rented does not release the operator from the requirements of this article.

(c) A new owner may continue to operate a food establishment without interruption from the city when the establishment is in complete compliance with this chapter. Total compliance is the basis for issuing the food establishment's permit, which must be obtained prior to opening the establishment for business. An inspection of the premises and operations can demonstrate the extent to which the food establishment is in compliance. Upon normal conditions, depending on the condition of the food establishment, many violations can be corrected within such a short period of time that an interruption of food services is unnecessary and not required.

(d) Depending on the wear and tear (depreciation) on the establishment, the building and equipment may already be close to compliance, and it is the responsibility of the new owner to schedule an inspection from the city to determine what is required to meet current codes.

Sec. 10-33 - 10-34 Reserved.

ARTICLE V. - MOBILE FOOD UNITS

Sec. 10-35. In General.

In addition to other requirements set forth in this chapter and applicable state law, a mobile food unit shall be subject to and shall comply with the provisions set forth in this article. The city's health official and/or code compliance officer, may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation and may prohibit the sale of some or all potentially hazardous foods.

Sec. 10-36. Mobile food unit regulations.

The following additional regulations shall apply to mobile food **units**:

(1) *Plan submission.* Plans must be submitted to the Code Compliance Department at the time of permit application prior to operation of a mobile food unit. Plans shall show the signage, layout, arrangement of equipment, and construction material of the inside of the mobile food unit including food preparation, storage and service window areas.

(2) *Hours of operation.* A mobile food unit may only operate between the hours of 7am and 9pm when conducting business within 200 feet of a residence.

(3) *City parks and city property.* A mobile food unit may only operate within any city park or on city property other than city streets with the written consent of the City Manager.

(4) *Fixed location.* A mobile food unit operating from a fixed location shall obtain written permission from the property owner to operate on the property owner's premise. A copy of such letter must be provided to the city with the permit application. The operator of a fixed location mobile food unit shall notify the code compliance department each time the mobile food unit changes location of operation no later than twenty-four (24) hours after the change has taken place and provide written permission to operate at such location. A mobile food unit operating from a fixed location cannot set up within twenty-five (25) feet of the roadway or the public easement.

(5) *Identification of mobile food units.* Every mobile food unit must be readily identifiable by the business name which must be printed, permanently affixed and prominently displayed upon at least two (2) sides of such units in letters not less than three (3) inches in height.

Additionally, the following identification requirements are for mobile food units used for the purpose of selling or dispensing frozen desserts, prepackaged food and beverages from a moving truck:

(a) A sign clearly visible from both the front and the rear, mounted on the top of the truck, must bear the warning sign "CAUTION - CHILDREN". The lettering for such sign shall be in block style letters and not less than six (6) inches in height and one-half inch wide, and letters shall be black against a yellow background.

(b) Flasher-type warning lights displaying yellow to the front and red to the rear and which operate continuously while the truck is stopped for the purpose of making a sale shall be installed at each end of the "CAUTION - CHILDREN" sign.

(6) *Sanitation requirements.* The following additional sanitation requirements shall apply:

(a) Any accident involving a mobile food unit shall be reported in writing, to the Code Compliance Department within twenty-four (24) hours from the time the accident occurred, and before operation of mobile food unit resumes if such accident results in damage to the water system, waste retention tank, food service equipment, or any facility which may result in the contamination of the food being carried. Such report shall be made by the holder of the mobile food unit permit.

(b) In the event that the permit issued under this chapter to any food establishment that has agreed to be a central preparation facility for a mobile food unit has been revoked, suspended, or without timely renewal, the permit for the same mobile food unit shall be automatically suspended until and unless the permit for the food establishment is restored to valid status.

Section 3. Savings Clause. That except as amended herein all other provisions of Chapter 10 of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Penalty. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty section 1-5 of the Code of Ordinances. Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 6. Publication. The City Clerk of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the Charter of the City of Alvin, Texas and *Chapt. 52, Tex. Loc. Gov't. Code.*

Section 7. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code* and the *City of Alvin Charter.*

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED on first and final reading on the _____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS:

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor

ORDINANCE NO. 16-D

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS AMENDING CHAPTER 10, FOOD AND FOOD ESTABLISHMENTS, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS, ADOPTING THE STATE'S RECENTLY ADOPTED TEXAS FOOD ESTABLISHMENT RULES AND ADDING NEW REGULATIONS FOR MOBILE FOOD UNITS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Alvin City Council finds that food and food establishment regulations should be amended to comply with recently adopted state law and that the regulations addressing these concerns are in the best interest of the health, safety, and welfare of the citizens of Alvin, Texas, and

WHEREAS, the Alvin City Council also wishes to establish regulations for Mobile Food Units for the [support of small business start-ups, diverse cuisine options, and tourism inducing environments as well as the](#) enjoyment of the citizens of Alvin.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN, TEXAS:

Section 1. That certain sections of Chapter 10; Food And Food Establishments, of the Code of Ordinances, City of Alvin, Texas; are hereby amended, which said sections shall read as follows:

Chapter 10. FOOD AND FOOD ESTABLISHMENTS

ARTICLE I. IN GENERAL

Sec. 10-1. State regulations adopted.

The City of Alvin adopts by reference the most current version of the Texas Food Establishment Rules promulgated by the Texas Department ~~of Health~~ [of State Health Services](#) with an effective date of ~~October 6, 1998~~, [October 11, 2015](#), and set forth in 25 Texas Administrative Code, chapter ~~229 228~~, ~~sections 161 through 171 and 173 through 175~~ [Subchapters A - J](#). The Texas Food Establishment Rules shall be considered incorporated herein by reference for all purposes. From and after enactment of this chapter, the Texas Food Establishment Rules shall govern the regulation of food and food establishments in the City of Alvin in addition to any other requirements set forth in this chapter and other applicable laws and regulations. Any subsequent revisions or changes to the Texas Food Establishment Rules shall

automatically become a part of this chapter unless council action is required by law. A copy of the Texas Food Establishment Rules shall be on file in the office of the city clerk.

Sec. 10-2. Definitions.

For purposes of this chapter, the words, terms and phrases set forth in the Texas Food Establishment Rules as definitions shall have the meanings set forth therein. Additionally, the following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:

Authorized agent or employee means an employee(s) of the City of Alvin.

Food Establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption as follows:

- (A) a restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, ending location, (machine), self-service food market, conveyance used to transport people, institution, or food bank;
- (B) an establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout order, or delivery service that is provided by common carriers; and
- (C) includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off premises; and regardless of whether there is a charge for the food.
- (D) food establishment does not include an establishment that offers only prepackaged foods that are not time / temperature controlled for safety food, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold or offered for human consumption, a Bed and Breakfast Limited facility as defined in the TFER, or a private home that receives catered or home-delivered food.

Temporary Food Establishment is a food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Mobile Food Unit (MFU) means a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not include a stand or a booth. A roadside food vendor is classified as a MFU.

Mobile Food Unit – additional permit means a mobile food unit operated by an existing permitted food establishment that provides an additional source of food service and also includes

multiple mobile food units operated by the same owner. The owner is legally considered to be the person holding the food establishment's permit or the food permit(s) for the multiple mobile food units.

~~Municipality means the City of Alvin, Texas.~~

Non-profit organization means an incorporated organization which exists for educational or charitable reasons, and from which its shareholders or trustees do not benefit financially. Non-profit status must be verified by submission of supporting documentation, such as an IRS form 501c.

Regulatory authority means the City of Alvin, Texas.

~~Roadside food vendor means [a] person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Potentially hazardous foods shall not be processed or prepared by a roadside food vendor. A roadside food vendor is classified as a food establishment. For purposes of this definition, a person who owns or operates a fruit or produce stand shall be considered a roadside food vendor.~~

Texas Food Establishment Rules ("TFER") means the rules promulgated by the Texas Department of Health of State Health Services with an effective date of ~~October 6, 1998,~~ October 11, 2015, and set forth in 25 Texas Administrative Code, chapter ~~229~~ 228, ~~sections 161 through 171 and 173 through 175~~ Subchapters A - J, and as such rules may be hereafter amended.

Sec. 10-3. Application of chapter.

(a) This chapter shall apply to all areas within the corporate limits of the city.

~~(b) Nonprofit organizations shall not be required to pay a permit fee under this chapter, but nonprofit organizations shall be required to obtain a permit and comply with the requirements of this chapter.~~

(c) Persons or organizations whose food services are regulated and regularly inspected by another federal or state governmental entity are required to comply with this chapter.

Sec. 10-4. Enforcement.

This chapter shall be enforced by the city's ~~planning and development department~~ Code Compliance Department.

Sec. 10-5. Penalty.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00). Each day of violation of this chapter shall constitute a separate offense. Prosecution in municipal court shall be in addition to other remedies provided in this chapter, by law, or in equity.

Sec. 10-6. Injunction.

(a) If it appears that a person has violated, is violating, or threatens to violate this chapter, the city may institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.

(b) The city may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that:

- (1) A person is violating or threatening to violate this chapter; and
- (2) The violation or threatened violation creates an immediate threat to the health and safety of the public.

Secs. 10-7 - 10-10. Reserved.

ARTICLE II. PERMIT

Sec. 10-11. Required.

~~No person shall operate a~~ food establishment, temporary food establishment, mobile food establishment unit, child care center or group residence that provides food service ~~or mobile retail food store (roadside food vendor)~~ shall only be operated without a valid permit issued by the city under this chapter. ~~Only a person who complies with the requirements of this chapter shall be entitled to receive or retain a permit.~~ Permits are not transferable from place to place or person to person. A valid permit shall be posted in public view in every establishment. ~~Food caterers shall obtain a separate permit from the city for the food establishment or commissary central preparation facility.~~ Each and every food establishment, whether under one roof or not, shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter.

Sec. 10-12. Duration.

Permits shall be issued annually and shall extend from the date of issuance or renewal, as applicable. Annual renewal applications must be submitted at least thirty (30) days prior to the expiration date of the permit. A permit shall be issued only if the establishment is in complete compliance with this chapter.

A Mobile Food Unit (commonly known as a ‘food truck’) that operates for a period of no more than three (3) consecutive days in conjunction with a single event or celebration may obtain a Temporary Food Establishment permit.

Sec. 10-13. Fees.

(a) Before any permit shall be issued under this chapter, the applicant shall pay the applicable fees set forth in chapter 28 of this Code. ~~A food establishment with a frozen dessert~~

~~machine shall obtain a separate permit for such machine and pay an additional permit fee as set forth in chapter 28 of this Code.~~

(b) The re-inspection fee set forth in chapter 28 of this Code shall apply in cases where reinspection is deemed necessary by the City's health ~~official~~~~inspector~~/code ~~compliance~~~~enforcement~~ officer.

(c) Non-profit organization as defined by this article is required to submit an application for a permit, and upon submission of supporting documentation of nonprofit status, the organization will be issued a permit, but all fees associated with this permit shall be waived.

Sec. 10-14. Refunds/proration.

Permit fees are not refundable and shall not be prorated.

Sec. 10-15. Suspension.

The city may, ~~without warning, notice or hearing,~~ suspend any permit to operate a food establishment, temporary food establishment, and/or mobile food ~~establishment-unit, and roadside vendor~~ if the ~~holder of the~~ permit holder does not comply with the requirements of this chapter and the violation creates an immediate threat to the health and safety of the public. Suspension is effective upon written notice, and service operations shall immediately cease. Whenever a permit is suspended, the city shall notify the permit holder ~~of the permit~~ or the person in charge of the food establishment in writing of the reason(s) for which the permit is suspended and inform them of the opportunity for a hearing before the City Manager. ~~holder of a permit shall be afforded an opportunity for a hearing before the city's health officer within ten (10) days of the city's receipt of a request for a hearing from the permit holder. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing with the city clerk by the holder of the permit within ten (10) days. If the permit holder requests a hearing, they shall file their written request for a hearing with the city clerk. If no written request for hearing is filed within ten (10) days following service of such notice of suspension. If a request for hearing is filed, a hearing shall be scheduled within ten (10) days of the city's receipt of such request. If no request for hearing is filed within the ten (10) day period, the suspension of the permit is sustained. The city's health official~~~~inspector~~/code ~~compliance~~~~enforcement~~ officer may end the suspension at any time if reasons for suspension no longer exist.

Sec. 10-16. Revocation.

The city may, ~~after providing opportunity for a hearing before the City Manager,~~ revoke a permit ~~issued under this chapter~~ for serious or repeated violation(s) of any of the requirements of this chapter or for interference with the health ~~official~~~~inspector~~/code ~~compliance~~~~enforcement~~ officer in the performance of his/her duties. Prior to revocation, the city shall notify the permit holder ~~of the permit~~ or the person in charge of the food establishment in writing of the reason(s) for which the permit is subject to revocation and inform them of the opportunity for a hearing

before the City Manager. ~~and that~~ If the permit holder requests a hearing, they shall file their written request for a hearing with the city clerk within ten (10) days following service of such notice of revocation. ~~The permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed with the city clerk by the permit holder of the permit within such ten day period. If no request for hearing is filed within the ten day period, the revocation of the permit becomes final.~~ If a request for hearing is filed, a hearing shall be scheduled within thirty (30) days of the city's receipt of such request. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

Sec. 10-17. Service of notice.

A notice provided for in this article is properly served when it is delivered to the permit holder ~~of the permit~~ or the person in charge ~~of the establishment~~ or when it is sent by registered or certified mail, return receipt requested, to the last known address of the ~~holder of the permit holder~~ or when it is delivered by the city in person to the last known address of the ~~holder of the permit holder~~.

Sec. 10-18. Hearings.

The hearings provided for in this article shall be conducted by the ~~city's health officer~~ City Manager. Based upon the recorded evidence of such hearing, the ~~health officer~~ City Manager shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder ~~of the permit~~, and a copy shall be filed with the city clerk.

Sec. 10-19. Appeals.

Any person aggrieved by a decision of the ~~health officer~~ City Manager made under this article may appeal such decision to the city council by filing written notice of such appeal with the city clerk within ten (10) days of the date of the ~~health officer~~ City Manager's written report/decision. The city council shall conduct a hearing de novo and its decision shall be final and binding.

Sec. 10-20. Application for a new permit after revocation.

The ~~holder of a~~ permit holder that has been revoked ~~may~~ must wait 180 days after the final date of the revocation decision before ~~making~~ written application for a new permit.

Secs. 10-21 - 10-22. Reserved.

ARTICLE III. INSPECTIONS

Sec. 10-23. Frequency.

Inspections shall be performed as often as necessary to enforce this chapter.

Sec. 10-24. Access.

The authorized agent of the regulatory authority, after proper identification, shall be permitted to enter any food establishment, **mobile food unit** or establishment for which a permit has been issued ~~hereunder~~ at any reasonable time for the purpose of making inspections to determine compliance with this chapter. The employees/agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received or used or to persons employed by the establishment.

Sec. 10-25. Reports.

Whenever an inspection of a food establishment, **mobile food unit** or other establishment is made, the findings shall be recorded on the inspection report form. The inspection report form shall reference, by section number, the section violated and shall state the correction to be made. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The complete inspection report shall be prominently displayed in the establishment.

Sec. 10-26. Correction of violations.

The inspection form shall specify a reasonable period of time to correct the violations and such violations must be corrected within the specified period; provided, however that (i) if an imminent health hazard exists the establishment, **including a mobile food unit**, shall immediately cease food service operations and operations shall not be resumed until authorized by the city; ~~(ii) the establishment must initiate corrective action on all identified violations within forty eight (48) hours;~~ and ~~(iii)~~-(ii) all violations at temporary food establishments shall result in cessation of temporary food service operations. The establishment **or mobile food unit** shall not resume operations until such time as a reinspection determines that the condition(s) responsible for the requirement to cease operations no longer exists. The city shall offer to reinspect the establishment within a reasonable time.

Secs. 10-27 - 10-31. Reserved.

ARTICLE IV. CONSTRUCTION, REMODELING AND CONVERSION

Sec. 10-32. Plans.

Two (2) sets of properly prepared plans and specifications for each construction, remodeling or alteration of a food establishment shall be submitted to the ~~planning and development department~~ **Code Compliance Department** prior to any on-site construction. The plans must be drawn to scale no smaller than one-eighth (1/8) inch and shall consist of a plot plan, floor plan, foundation plan, structural plan, plumbing plan, elevation plan, wall section, engineer's scale and survey (if required by applicable law), mechanical and electrical details, and health equipment detail with elevations. ~~Plans shall be required for construction, remodeling and conversion of an~~

~~existing food establishment only when twenty (20) percent or more of the total area of the food establishment is to be constructed, remodeled or converted.~~

Sec. 10-33. ~~Regulations.~~ Reserved.

~~The following regulations shall apply to construction, remodeling and conversion of all food establishments:~~

- ~~(1) Floors. The floors and floor coverings of all food preparation, food storage and utensils washing areas and the floors of walk-in refrigerating units, dressing rooms, locker rooms and toilet rooms shall be constructed of smooth, durable materials, such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum, vinyl or plastic, and shall be maintained in good repair. All floors and floor coverings shall be nonabsorbent, easily cleanable and kept clean. No pipes or conduit shall be exposed on the floor.~~
- ~~(2) Walls and ceilings. Walls and ceilings in food preparation areas, food storage areas, equipment and utensil washing areas, walk-in refrigerating units, toilet rooms and vestibules shall be smooth, nonabsorbent, easily cleanable and light colored. Protected walls shall be in equipment areas. No pipes, conduits, electrical panels, studs, joists or rafters shall be exposed. Areas not mentioned in this subsection shall have easily cleanable studs, joists and rafters. No insulation may be exposed in any food establishment.~~
- ~~(3) Toilet rooms. Toilet rooms shall be completely enclosed and well lighted; shall have outside ventilation; shall have self-closing, tightfitting, solid doors; and shall not open directly into any room in which food, drinks or utensils are handled or stored. Walls shall be of impervious material up to four (4) feet or level of splash.~~
- ~~(4) Vestibule. The minimum size of the vestibule shall be four feet by four feet (4' x 4') or sixteen (16) square feet. The vestibule shall be lighted, shall have outside ventilation, shall have a self-closing door and must be of such dimensions as to prevent both doors from being opened simultaneously by the same person.~~
- ~~(5) Lavatory. The lavatory shall be wall hung and installed in the kitchen or working area and in or immediately adjacent to toilet room or vestibule. It shall be provided with hot and cold running water, tempered by means of a mixing valve or combination faucet. The minimum size of the lavatory shall be 15 inches by 15 inches (15" x 15") and the lavatory shall be adequate, convenient and easily accessible to employees. It shall be required only for employees to wash their hands.~~
- ~~(6) Manual cleaning and sanitizing. A three-compartment sink, large enough to fully submerge the largest utensil, of the minimum size of fifteen (15) inches long by fifteen (15) inches wide by fourteen (14) inches deep shall be provided, and each compartment shall be equipped with an integral heating device or chemical sanitizer, drain boards and an approved basket. For establishments with no multi-use utensils, a two-compartment sink shall be provided equipped with drain boards, and each compartment shall be a minimum of fifteen inches by fifteen inches by fourteen inches (15" x 15" x 14").~~
- ~~(7) Mechanical cleaning and sanitizing. For multi-use utensils, an approved dishwashing machine with a booster heater or sanitizer injector and drain boards shall be provided. Also, a three-compartment sink with drain boards adequate to fully submerge cooking and covered utensils shall be provided.~~
- ~~(8) Stockroom. The stockroom shall be suitable for ample storage with approved storage racks.~~

- ~~(9) Water heater. The water heater cannot be located in the kitchen or working area.~~
- ~~(10) Grease trap. The grease trap shall be located outside the building and shall comply with the plumbing code. In no event shall the grease trap have a minimum capacity less than seven hundred fifty (750) gallons.~~
- ~~(11) Dressing rooms. Dressing rooms shall be adequate, ventilated and lighted, and lockers or other suitable facilities for employees' clothing or other belongings shall be provided. The dressing room shall be used for no other purpose.~~
- ~~(12) Walk-in refrigeration units. Walk-in refrigeration units cannot have a threshold and cannot have floor drain with a direct connection.~~
- ~~(13) Equipment. Equipment shall be located in a way that facilitates cleaning the establishment and prevents food contamination. Floor-mounted equipment, unless readily movable, shall be sealed to the floor or installed on a raised platform of concrete or other smooth masonry in a way that meets all requirements for sealing or floor clearance or elevated on legs to provide at least six (6) inches of clearance between the floor and equipment. Unless sufficient space is provided for easy cleaning between and behind each unit of floor mounted equipment, the space between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.~~
- ~~(14) Mop sink. A city approved plumbing fixture designated as a mop sink shall be provided in an approved location.~~
- ~~(15) Ventilation. All rooms shall have sufficient ventilation, including metal filtered hoods over equipment where particulate matter is deposited, i.e., fryers, broilers, grills, etc. All ventilation hoods shall be professionally cleaned at least two (2) times during each annual permit period.~~
- ~~(16) Lighting. At least fifty (50) footcandles of light shall be provided to all working surfaces, and at least thirty (30) footcandles of light shall be provided to all other surfaces and equipment in food preparation, utensil washing and handwashing areas and in toilet rooms. At least twenty (20) footcandles of light at a distance of thirty (30) inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.~~
- ~~(17) Protective shields. Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by or within food storage, preparation, service and display facilities and facilities where utensils and equipment are cleaned and stored.~~
- ~~(18) Infrared and other lamps. Infrared or other heatlamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.~~
- ~~(19) Poisonous or toxic materials. All poisonous or toxic materials shall be stored in cabinets or similar physically separated compartments or facilities used for no other purpose. Each of the three (3) categories of poisonous or toxic materials shall be stored and located to be physically separated from each other.~~
- ~~(20) Laundry facilities. Separate rooms for laundry facilities shall be provided and shall be restricted to the washing and drying of linens, uniforms and aprons necessary to the operation.~~

Sec. 10-34. Other code requirements.

A building permit shall be required for construction, alteration, remodeling or conversion of a food establishment in accordance with the ~~Standard Building Code~~ International Building Code adopted by the city. Any construction, alteration, remodeling, or conversion of a food establishment shall comply with all applicable federal and state laws and codes and regulations of the city. To the extent of a conflict between or among the provisions of this chapter and other codes or ordinances of the city, the more restrictive provision shall control.

Sec. 10-35. Ownership of food establishment.

(a) ~~Often, w~~When an existing food establishment is purchased ~~and~~, the purchase does not include the property or the structure, but includes the rental or lease of space and equipment, ~~the~~ the city requires that the person who operates ~~the~~a food establishment ~~to~~ obtain a valid food establishment's ~~dealer's~~ permit. The person who applies for the food establishment's ~~dealer's~~ permit is considered, legally, to be the owner.

(b) The person who is registered on the food establishment's ~~dealer's~~ permit is the responsible party for the property, premises, structure and complete operating services. The operator of the food establishment is the ultimate responsible party, and the conditions under which the food establishment was leased or rented does not release the operator from the requirements of this article.

(c) A new owner may continue to operate a food establishment without interruption from the city when the establishment is in complete compliance with this chapter. Total compliance is the basis for issuing the food establishment's ~~dealer's~~ permit, which must be obtained prior to opening the establishment for business. An inspection of the premises and operations can demonstrate the extent to which the food establishment is in compliance. Upon normal conditions, depending on the condition of the food establishment, many violations can be corrected within such a short period of time that an interruption of food services is unnecessary and not required.

(d) Depending on the wear and tear (depreciation) on the establishment, the building and equipment may already be close to compliance, and it is the responsibility of the new owner to schedule an inspection from the city to determine what is required to meet current codes.

Sec. 10-36. ~~Garbage and refuse.~~ Reserved.

~~(a) Outside storage area. Outside garbage and refuse storage areas or enclosures for a food establishment shall be large enough to store the garbage and refuse that has accumulated. Garbage, recyclable, returnable, and refuse containers, dumpsters and compactor systems shall be kept clean and in good repair and, if located outside, shall be stored on or about a smooth surface or slab of nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and in good repair. Dumpsters and similar equipment shall be constructed with a removable plug to drain liquid from garbage, rain and cleaning operations, and such plug shall be kept in place except during the cleaning process.~~

~~(b) Cleaning facilities. The nonabsorbent surface or slab of the garbage and refuse storage area shall be connected by a drain with an approved trap to an approved wastewater system, and the liquid waste from the cleaning or storage operations shall be disposed of as sewage. The slab shall be sloped to the drain, and the drain should not be located under the dumpster. The drain opening should be graded and should not be less than three (3) inches in diameter. The slab and drain shall be designed and constructed to prevent the draining of the surrounding area through the slab drain system. Suitable facilities, including hot and cold water and detergent or steam, shall be provided and used for washing containers. Before any construction of the storage or cleaning area begins, all plans and material for such construction must be approved by the city, the water district or other authority having jurisdiction.~~

Secs. 10-37 - 10-41. Reserved.

ARTICLE V. - MOBILE FOOD ~~ESTABLISHMENTS~~UNITS

Sec. 10-42. In General.

In addition to ~~all~~ other requirements set forth in this chapter and applicable state law, a mobile food ~~establishment~~ unit shall be subject to and shall comply with the provisions set forth in this article. The city's health official~~s~~, and/or code compliance officer, may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation and may prohibit the sale of some or all potentially hazardous foods.

Sec. 10-43. Mobile food ~~establishment~~ unit regulations.

The following additional regulations shall apply to mobile food ~~establishment~~ units:

- ~~(1) *Submitting plans*~~ *Plan submission.* Plans must be submitted to the ~~planning and development department~~ Code Compliance Department at the time of permit application prior to operation of a mobile food ~~establishment~~ unit. Plans shall show the ~~signage~~, layout, arrangement of equipment, and construction material of the inside of the mobile food ~~establishment~~ unit including food preparation, storage and service window areas.
- ~~(2) *Menu.* A menu or list of foods and beverages to be served shall be submitted for review and approval at the time of permit application.~~
- ~~(3) *Description of operation.* A written description of operation shall be submitted to the planning and development department along with the permit application. The description shall include, but not be limited to the following: whether or not only prepackaged food items will be served, main hours of operation, main area of operation, method of serving food to customers, sanitation of equipment and utensils, and cleaning, flushing of potable water supply, and cleaning and flushing of wastewater retention tank.~~
- ~~(4) *Central preparation facility or commissary; general.* Mobile food establishments shall operate from a central preparation facility or other fixed food establishment and~~

~~shall report to such location for supplies and for cleaning and servicing operations. The central preparation facility or other fixed food service establishment, used as a base of operation for a mobile food establishment, shall be constructed and operated in compliance with the requirements of applicable regulations. A written letter of commissary shall be provided to the planning and development department with the permit application.~~

~~(5)~~ *Operation location*

- (2) Hours of operation. A mobile food unit may only operate between the hours of 7am to 9pm when conducting business within 200 feet of a residence.
- (3) City property. A mobile food unit may only operate within any city park or on city property other than city streets with the written consent of the City Manager.
- (4) Fixed Location. A mobile food unit operating from a fixed location shall obtain written permission from the property owner to operate on the property owner's premise. A copy of such letter must be provided to the city with the permit application. The operator of a fixed location mobile food unit shall notify the code compliance department each time the mobile food unit changes location of operation no later than twenty-four (24) hours after the change has taken place and provide written permission to operate at such location.

A mobile food unit operating from a fixed location cannot be within twenty-five (25) feet of the roadway or the public easement.

- ~~(6)~~(5) *Identification of mobile food units.* Every mobile food ~~establishment~~ unit must be readily identifiable by the business name which must be printed, permanently affixed and prominently displayed upon at least two (2) sides of such units in letters not less than three (3) inches in height.

Additionally, the following identification requirements are for mobile food ~~establishments~~ units used for the purpose of selling or dispensing frozen desserts, prepackaged food and beverages from a moving truck:

(a) A sign clearly visible from both the front and the rear, mounted on the top of the truck, must bear the warning sign "CAUTION - CHILDREN". The lettering for such sign shall be in block style letters and not less than six (6) inches in height and one-half inch wide, and letters shall be black against a yellow background.

(b) Flasher-type warning lights displaying yellow to the front and red to the rear and which operate continuously while the truck is stopped for the purpose of making a sale shall be installed at each end of the "CAUTION - CHILDREN" sign.

~~(7) Restricted operations. A mobile food unit that serves no food other than:~~

~~(a) Food that was prepared and packaged in individual servings at an approved commissary, and transported and stored under conditions meeting the requirements of this article;~~

~~(b) Beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment;~~

~~(c) Potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant; and~~

~~(d) Prepackaged individual serving frozen dessert items including, without limitation, frozen ice and ice cream novelty bars, cones and serving cups that have been packaged at a pasteurizing plant or other approved facility need not comply with requirements of this article pertaining to the necessity of potable water and sewage systems or to the cleaning and sanitation of equipment and utensils if the required equipment for cleaning and sanitation exists at its commissary, nor with the requirement that the servicing area be located in an enclosed building.~~

~~(8)~~ (6) *Sanitation requirements.* The following **additional** sanitation requirements shall apply:

~~(a) A mobile food establishment shall provide only single-service articles for use by the consumer.~~

~~(b) A mobile food establishment requiring a water system shall have a potable water system under pressure. All water used in connection with the mobile food establishment shall be from a source approved by the local health inspector. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and hand washing, in accordance with all local and state requirements as set forth in this chapter. The water system must be designed, operated, and maintained to comply with all regulations set forth in the Texas Food Establishment Rules.~~

~~(c) If liquid waste results from operation of a mobile food establishment, the waste shall be stored in a permanently installed retention tank. The size of the retention tank must be at least twenty five (25) percent larger than the water supply tank and sloped to drain with a shut off valve. The retention tank design, operation and maintenance must comply with all requirements set forth by the Texas Food Establishment Rules.~~

~~(d) A mobile food establishment shall have adequate and approved garbage and refuse storage facilities. Each establishment shall have a least one twenty five-gallon leak proof, nonabsorbent material garbage container, clearly marked and maintained for the patron's use.~~

~~(e) The interior of such establishment shall be equipped with lockable cabinets or compartments for storage. All food contact surfaces shall be smooth, easily accessible and cleanable. Unfinished or painted wood shall not be used as a food contact surface.~~

~~Mobile establishments which dispense beverages must be equipped to do so from a closed carbonation system, bulk dispensing units or prepackaged beverage containers.~~

(f)(a) Any accident involving a mobile food ~~establishment unit~~ shall be reported in writing, to the ~~planning and development department~~ Code Compliance Department within twenty-four (24) hours from the time the accident occurred, and before operation of mobile food ~~establishment unit~~ resumes if such accident results in damage to the water system, waste retention tank, food service equipment, or any facility which may result in the contamination of the food being carried. Such report shall be made by the holder of the mobile food ~~establishment unit~~ permit.

(g)(b) In the event that the permit issued under this chapter to any food establishment that has agreed to be a ~~commissary central preparation facility~~ for a mobile food ~~establishment unit~~ has been revoked, suspended, or without timely renewal, the permit for the same mobile food ~~establishment unit~~ shall be automatically suspended until and unless the permit for the food establishment is restored to valid status.

Section 3. Savings Clause. That except as amended herein all other provisions of Chapter 10 of the Code of Ordinances, City of Alvin, Texas shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 4. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 5. Penalty. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty section 1-5 of the Code of Ordinances. Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 6. Publication. The City Clerk of the City of Alvin is hereby directed to publish this ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the Charter of the City of Alvin, Texas and *Chapt. 52, Tex. Loc. Gov't. Code*.

Section 7. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code* and the *City of Alvin Charter*.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on first and final reading on the _____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS:

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor



AGENDA COMMENTARY

Meeting Date: 3/17/2016

Department: Public Services/Code Compliance **Contact:** Brian Smith/Kacey Roman

Agenda Item: Consider Ordinance No. 16-E; amending Chapter 28, Comprehensive Fee Ordinance, for the purpose of amending food and food establishments permit fees; providing for an effective date; and setting forth other provisions related thereto.

Type of Item: Ordinance Resolution Contract/Agreement Public Hearing Discussion & Direction

Summary: The changes to this ordinance are for the purpose of amending food and food establishments' permit fees in an effort to remain competitive with comparison cities and to provide cost coverage for the additional work required by revised state statute. Staff proposes adopting the following amounts:

Food establishments:	
Less than 1,000 sq. ft.	\$175.00
1,000 to 10,000 sq. ft.	\$275.00
10,001 sq. ft. and more	\$375.00
Temporary food establishments	\$50.00
Mobile food unit	300.00
Mobile food unit – additional permit	\$50.00
Child care center	\$150.00
Group residence	\$150.00
Reinspection.....	\$50.00

Funding Expected: Revenue Expenditure ___ N/A ___ **Budgeted Item:** Yes No ___ N/A ___

Account Number: _____ **Amount:** _____

Legal Review Required: N/A ___ Required **Date Completed:** March 14, 2016

Supporting documents attached:

- Ordinance 16-E; red-lined
- Ordinance 16-E; final
- Health Fees Comparison Chart

Recommendation: Move to approve Ordinance 16-E, amending the permit fees for Food and Food Establishments.

Reviewed by Department Head, if applicable

Reviewed by City Attorney, if applicable

Reviewed by Chief Financial Officer, if applicable

Reviewed by City Manager

ORDINANCE NO. 16-E

AN ORDINANCE AMENDING CHAPTER 28, COMPREHENSIVE FEE ORDINANCE, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS FOR THE PURPOSE OF AMENDING FOOD AND FOOD ESTABLISHMENTS PERMIT FEES; PROVIDING FOR AN EFFECTIVE DATE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN:

Section 1. That Section 28-2 of the Code of Ordinances of the City of Alvin, Texas is hereby amended by amending permit fees for food and food establishments as follows:

"28-2. In general.

...

FOOD AND FOOD ESTABLISHMENTS

Permit fees for food establishments:

(1) Food establishments:

- (a) Less than 1,000 sq. ft.~~\$100.00~~ 175.00
- (b) 1,000 to 10,000 sq. ft.~~\$200.00~~ 275.00
- (c) 10,001 sq. ft. and more~~\$375.00~~ 375.00

- ~~(2) Child care center\$100.00~~
- ~~(3) Group residence\$100.00~~

- ~~(4) Non PHF mobile food establishment
-(no sales of potentially hazardous foods)\$100.00~~

- ~~(5) PHF mobile food establishments
(sales of potentially hazardous foods)\$200.00~~

- ~~(26)~~ Temporary food establishments\$50.00

- ~~(37)~~ ~~Roadside food vendors~~ Mobile food unit.....~~\$50.00~~ 300.00

- (4) Mobile food unit – additional permit\$50.00

(5) Child care center\$~~100.00~~ 150.00

(6) Group residence\$~~100.00~~ 150.00

(7) Reinspection\$50.00

~~(8) Food establishment with frozen dessert machine, for additional separate permit for such machine\$25.00~~

...

Section 2. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 3. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code, and the City of Alvin Charter.*

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't Code.*

PASSED AND APPROVED on first and final reading on the _____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS:

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor

ORDINANCE NO. 16-E

AN ORDINANCE AMENDING CHAPTER 28, COMPREHENSIVE FEE ORDINANCE, OF THE CODE OF ORDINANCES, CITY OF ALVIN, TEXAS FOR THE PURPOSE OF AMENDING FOOD AND FOOD ESTABLISHMENTS PERMIT FEES; PROVIDING FOR AN EFFECTIVE DATE; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALVIN:

Section 1. That Section 28-2 of the Code of Ordinances of the City of Alvin, Texas is hereby amended by amending permit fees for food and food establishments as follows:

"28-2. In general.

...

FOOD AND FOOD ESTABLISHMENTS

Permit fees for food establishments:

(1) Food establishments:

- (a) Less than 1,000 sq. ft.\$175.00
- (b) 1,000 to 10,000 sq. ft.\$275.00
- (c) 10,001 sq. ft. and more\$375.00
- (2) Temporary food establishments\$50.00
- (3) Mobile food unit.....300.00
- (4) Mobile food unit – additional permit\$50.00
- (5) Child care center\$150.00
- (6) Group residence\$150.00
- (7) Reinspection\$50.00

...

Section 2. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 3. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of *Chapt. 52, Tex. Loc. Gov't. Code, and the City of Alvin Charter.*

Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't Code.*

PASSED AND APPROVED on first and final reading on the _____ day of _____, 2016.

ATTEST:

CITY OF ALVIN, TEXAS:

By: _____
Dixie Roberts, City Clerk

By: _____
Paul A. Horn, Mayor

Health Fees Comparison

Existing

*** Prices are increased by 25% for Medium Risk, and 50% for High Risk

	<u>Food Establishments</u>			<u>Child Care</u>	<u>Group Residence</u>	<u>Temporary Food</u>		<u>Pre-packaged only</u>	
	<u>< 1,000 sq ft</u>	<u>1,001 - 10,000 sq ft.</u>	<u>10,001 + sq ft</u>			<u>Establishment</u>	<u>Mobile Food Unit</u>	<u>Mobile Food Unit</u>	
<u>Fees Based on Square Footage</u>									
Alvin	100.00	200.00	375.00	100.00	100.00	50.00	\$200/60 days 3x/year= \$600.00 year	\$100/60 days 3x/year= \$300.00 year	
Brazoria County	200.00	300.00		150.00		40.00	200.00		
Clute	100.00	150.00	200.00	25.00-50.00	25.00-50.00	25.00	Does not allow (except festivals)		
***Lake Jackson	125.00	250.00	500.00	100.00	50.00	50.00	125.00		
Richwood	1-6 emp 200.00	7-15 emp 250.00	16-25 emp 300.00	1-20 children 150.00	1-20 adults 150.00	40.00	200.00		
				21-30 children 175.00	21-30 adults 175.00				
				31-50 children 200.00	31-50 adults 200.00				
<u>Fees Based on Risk Factor</u>									
	<u>Low Risk</u>	<u>Med Risk</u>	<u>High Risk</u>	<u>Child Care</u>	<u>Group Residence</u>	<u>Temporary Food</u>	<u>MFU - High Risk</u>	<u>MFU - Med Risk</u>	<u>MFU - Low Risk</u>
Galveston County	250.00	275.00	300.00	>13 Children 150.00	75.00	75.00	300.00	275.00	250.00
Friendswood	250.00	275.00	300.00	>13 Children 150.00	75.00	75.00	300.00	275.00	250.00
League City	250.00	275.00	300.00	>13 Children 150.00	75.00	75.00	Does not allow mobile vendors		

Proposed New Fees

	<u>Food Establishments</u>			<u>Child Care</u>	<u>Group Residence</u>	<u>Temporary Food</u>	<u>Mobile Food Unit</u>	<u>Mobile Food Unit</u>	<u>Additional Mobile Food Unit</u>
	<u>< 1,000 sq ft</u>	<u>1,001-10,000 sq ft.</u>	<u>10,001 + sq ft</u>			<u>Establishment</u>		<u>Prepackaged Only</u>	<u>(same owner)</u>
Alvin	\$100.00	\$200.00	\$375.00	\$100.00	\$100.00		200/60 days 3x/year= \$600.00 year	100/60 days 3x/year= \$300.00 year	
	\$175.00	\$275.00	\$375.00	\$150.00	\$150.00	\$50.00	300.00/year		\$50.00
25%	125.00	250.00	468.75						