

RESOLUTION NO. 2002- 68 R

A RESOLUTION GRANTING VARIANCES TO SECTIONS 14-52 AND 14-55 OF THE VICTORIA CITY CODE, WHICH GOVERN THE CITY'S REQUIREMENTS FOR ITINERANT VENDOR PERMITS AND COMMERCIAL OUTDOOR SALES PERMITS TO VENDORS OPERATING AT THE NOCHE EN MEXICO CELEBRATION ON MAY 4, 2002; AND DECLARING AN EFFECTIVE DATE.

Section 14-52 of the Victoria City Code provides as follows:

Sec. 14-52. Itinerant vendors--Permit required; application.

(a) It shall be unlawful for any itinerant vendor to sell or offer for sale any goods or services, from a fixed location visible from a public street, or from house to house or from place to place, without first obtaining a permit from the city secretary; provided, that itinerant vendors engaged exclusively in interstate commerce shall register in accordance with section 14 -55. Each individual who qualifies as an itinerant vendor herein shall be required to separately apply for and receive the permit herein prior to engaging in any activities as an itinerant vendor.

(b) Applications for itinerant vendor permits shall be made on a form provided by the city secretary, which shall contain at least the following information:

- (1) The full name of the applicant;
- (2) The applicant's permanent home or business address, and temporary local address;
- (3) The name and address of the company, if any, which the applicant represents;
- (4) The names of the last three (3) cities or towns in which the applicant has conducted sales;
- (5) A detailed description of all goods or services to be offered for sale;
- (6) The names of credit references, including banks and credit cards;
- (7) The applicant's date of birth and driver's license number;
- (8) A description of any vehicle to be used by the applicant including the make, color, and license plate number;
- (9) Whether the applicant has ever been convicted of any felony, or any form of fraud, theft, or other crime involving moral turpitude, and if so, the type of crime and date and place of conviction;
- (10) The number and date of issuance of state sales tax permit; and
- (11) A statement given by the applicant under oath that all information provided on the application form is true and correct.
- (12) A statement that the applicant consents to an investigation of the applicant's local, state, and federal criminal records and authorizes their release to the City of Victoria for the purpose of investigating the issuance of the permit hereunder.

(c) The completed application form shall be accompanied by the presentation of at least two forms of identification, one of which must be a picture identification card that is official and contains the registrant's date of birth and permanent address and fees as prescribed by separate ordinance, based upon the expense reasonably to be incurred by the city in conducting the investigation hereinafter provided.

(d) If sales are to be conducted from a fixed location, the application shall be accompanied by written, dated proof of permission of the property owner specifying the dates and location authorized. A permit issued on such basis shall be good only for the location specified in such written permission.

Section 14-55 of the Victoria City Code provides as follows:

Sec. 14-55. Commercial outdoor sales; interstate commerce; registration required.

(a) It shall be unlawful for any person other than an itinerant vendor to sell or offer for sale any goods or services from house to house or place to place, or from a fixed location visible from a public street, without first registering with the city secretary in accordance with this section; provided, that such persons conducting sales on behalf of a charitable, nonprofit, or religious organization or purpose shall register in accordance with section 14-56.

(b) It shall be unlawful for any itinerant vendor engaged exclusively in interstate commerce to sell or offer for sale any goods or services from house to house or place to place, or from a fixed location visible from a public street, without first registering with the city secretary in accordance with this section.

(c) Registration, when required by this section, shall be on a form provided by the city secretary

containing at least the following information:

- (1) The full name of the registrant.
 - (2) The registrant's permanent home and business address.
 - (3) The name and address of the company, if any, which the registrant represents.
 - (4) The registrant's date of birth and driver's license number.
 - (5) A detailed description of the goods or services to be offered for sale.
 - (6) The names of credit references, including banks and credit cards.
 - (7) A description of any vehicle to be used by the registrant including the make, color, and license plate number.
 - (8) If the sales involve taking orders for future delivery, the place from which orders will be shipped and the method of delivery.
 - (9) The number and date of issuance of state sales tax permit.
 - (10) Whether the registrant has ever been convicted of any felony, or any form of fraud, theft, or other crime involving moral turpitude. If so, the type of crime and date and place of conviction.
 - (11) A statement given under oath by the registrant that all information provided on the registration form is true and correct.
- (d) If sales are to be conducted from a fixed location, the registration shall be accompanied by written dated proof of permission of the property owner specifying the dates and location authorized.

Section 2-95 of the Victoria City Code authorizes the City Council to grant a variance from City Code requirements when it deems such action proper.

THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

Variations to Sections 14-52 and 14-55 of the Victoria City Code, which govern the City's requirements for itinerant vendor permits and commercial outdoor sales permits to vendors operating at the Noche en Mexico celebration on May 4, 2002, are granted.

2.

It is the policy of the City Council to encourage vendors to locate their events in the City's Special Events area in Riverside Park, and this variance is not intended to encourage use of the DeLeon Plaza or create an impression that future variances of this nature will be considered.

3.

This resolution shall become effective immediately upon adoption.

PASSED, this the 23rd day of April, 2002.

AYES: 7

NAYS: 0

ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 23rd day of April, 2002.


ATTEST:


SCARLET SWOBODA, City Secretary




GARY MIDDLETON, Mayor of the
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:


DAVID ATMAR SMITH, City Attorney

Distribution: Legal Department
City Manager

Copy Sent: April 24, 2002