



PLANNING DEPARTMENT

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FLEA MARKET OPERATOR APPLICATION

Name of Flea Market _____

Address _____

Contact Person _____

Phone _____ E-mail _____

Owner's Name _____

Owner's Address _____ City _____ State _____ Zip _____

Phone _____ E-mail _____

Applicant's Signature

SWORN AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 20_____.

Notary Public in and for the state of Texas County of Maverick

**NOTE: "The license hereby applied for shall be subject to all provisions and regulations of this Code and other ordinances of the City related to flea market operators."

Office Use

DISPOSITION OF APPLICATION: Signatures indicate approval by departments

1. Zoning _____ Date _____

2. Building _____ Date _____

3. Water Works (Sewer) _____ Date _____

4. Fire Prevention _____ Date _____

5. Public Works (Garbage) _____ Date _____

Date of Application _____ New Renewal

Date Paid _____ Receipt # _____

ARTICLE VII. – FLEA MARKETS

Sec. 19-112. License required.

No flea market shall be operated within the city without first having obtained a flea market operator license and a certificate of occupancy, the license shall be procured by complying with the following provisions:

- (a) *Application.* A flea market operator shall submit an application for a license addressed to the planning department which shall contain the name, address and phone number of each owner and operator. In the case of a partnership, limited liability company (LLC), corporation or other such firm, the application shall list the names, phone numbers, and addresses of each individual member, partner, or shareholder of the entity. The application shall also contain a construction and development plan as described in section 19-122.
- (b) *Application to contain provision relative to compliance with ordinances.* Such application shall contain the following words:

"The license hereby applied for shall be subject to all provisions, ordinances and regulations of the city, including but not limited to, specific regulations related to flea market operators."
- (c) *License fees.* The annual license fee for licenses under this section shall be one hundred twenty-five dollars (\$125.00), paid in advance of the year for which the permit is being sought.
- (d) *Application to be signed and sworn to.* Such application shall be signed and sworn to by each owner and operator applying therefor before some officer authorized by law to administer oaths.
- (e) *Issuance of license.* Each application shall be presented to the planning department. The department shall issue a license to the applicant upon a finding of (1) a valid certificate of occupancy, (2) compliance with the approved construction and development plan for the market, and (3) compliance by the applicant with the terms of this article.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-113. License to be available for inspection.

Every flea market operator while engaged in the pursuit of their business shall have posted, in a conspicuous place in public view and available for inspection at all times, their license and certificate of occupancy to be engaged in such business.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-114. Limitations to license.

A license issued under this article shall not entitle the holder thereof to engage in the sale of used merchandise, but shall only authorize the holder to operate a flea market. However, this does not foreclose the flea market operator from obtaining the proper license to engage in selling used merchandise within the flea market. The license and certificate of occupancy is not transferrable or assignable. A new license and certificate shall be required if there is a change in business ownership or property ownership, a change in operators, or a revision of the construction and development plan. A license issued under this article shall expire one (1) year from the date of issuance. An application for renewal shall be submitted to the planning department at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration date of the license and certificate will not be affected by the pendency of the application.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-115. Copy of regulations to be furnished to every person who is allowed to display merchandise for sale.

Every flea market operator shall furnish a copy of the regulations contained within this article to every person who is allowed to display merchandise for sale within such flea market. The planning department shall revoke the flea market operator license if the operator fails to comply with this provision.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-116. Merchandise subject to inspection.

All merchandise on the premises of a flea market shall be subject to inspection at all times by the police department, the public works department, the fire department, and the planning department.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-117. Prohibited merchandise.

- (a) No merchandise shall be displayed for sale at any flea market if the manufacturer's seal, identification number or brand has been removed or obliterated.
- (b) The sale, display or distribution of merchandise bearing counterfeit trademarks or that infringes on copyrighted designs or materials shall be prohibited.
- (c) The sale of prepackaged food, including infant formula or baby food of a type intended for consumption by children younger than two (2) years of age, medical drugs as defined in Section 431.002 of the Texas Health and Safety Code, and contact lenses, including disposable contact lenses, is prohibited.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-118. Hours of business regulated.

It shall be unlawful for any person to engage in the operation of a flea market between the hours of 9:00 p.m. and 5:00 a.m.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-119. Location of flea markets.

All new flea markets in the city are prohibited unless authorized by a conditional use permit in the "I" industrial district. Any lawfully licensed and established flea market existing as of January 16, 2018, may continue to operate as a nonconforming use subject to the provisions of section 10(G)(2) of Appendix A in the Code of Ordinance for the City of Eagle Pass.

(Ord. No. 2013-14, § 1, 8-6-2013; Ord. No. 2018-03, § 1, 1-16-2018)

Editor's note(s)—Ord. No. 2018-03, § 1 Editor's note(s)—, adopted January 16, 2018, renamed § 19-119 Editor's note(s)— from "flea markets to be located in a commercial zoning district" to "location of flea markets."

Sec. 19-120. Operator and vendor responsibility.

- (a) The flea market operator shall ensure that all flea markets:
 - (1) Have direct or easement access to an arterial street.
 - (2) Have adequate off-street parking that complies with Section 12.1 of the Eagle Pass Code of Ordinances Appendix A.
 - (3) Have at least one (1) sanitary facility (restrooms) each for men and women, or one (1) uni-sex. Restroom(s) construction shall comply with the provisions of the International Building Code (IBC) and the International Plumbing Code (IPC). All restroom facilities shall comply with the provisions of the Americans with Disabilities Act (ADA).
 - (4) Have adequate on-site garbage and/or trash collection containers as set forth in Chapter 14 of the City of Eagle Pass Code of Ordinances. Any flea market operator that does not comply with the provisions of this article shall be subject to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) for each violation, with a separate violation deemed committed for each and every day that the violation(s) continues to occur.
 - (5) Sales are made from designated vendor sale areas as illustrated on the approved construction and development plan for the flea market. Sale material is prohibited to be placed within or upon any pedestrian access aisle or any required fire lane so designated on the approved construction and development plan. Booth areas, pedestrian access aisles, and fire lanes are to be clearly delineated on the property through the use of a three (3) inch wide white or yellow stripe painted on the asphalt or concrete surface area of the flea market, with the location of all booth areas, pedestrian access aisles, and fire lanes placed in

accordance with the approved construction and development plan. All pedestrian access aisles and fire lanes shall be asphalt surfaced or concrete surfaced. Any alternate surfacing shall be compliant with the provisions of the Americans with Disabilities Act (ADA) and shall be approved in writing by the planning department and, in the case of a fire lane, by the fire marshal.

Any on-premises sale of food shall be subject to the health and sanitation requirements of Chapter 16 of the City of Eagle Pass Code of Ordinances.

- (6) Have fire prevention and protection equipment on-site. The type and location of all fire prevention features, including the six-foot-wide emergency access aisle, shall be consistent with the International Fire Code (IFC), approved by the fire marshal, and illustrated on the approved construction and development plan.
- (7) All merchandise for sale, including temporary canopies, tables, and display structures shall be removed from the flea market property at the close of business each day, unless the material is contained (a) entirely within an enclosed storage unit or building as illustrated on the approved construction and development plan, or (b) entirely within a currently licensed trailer or licensed vehicle. The outdoor storage of merchandise is prohibited.

A permanent canopy structure shall be permitted, provided that (a) a building permit is obtained for the structure, (b) the structure complies with the floodplain management standards set forth in Chapter 13½ of the City of Eagle Pass Code of Ordinances, if located in a floodplain; and (c) the structure is designed in conformance with city design standards as approved by the planning department.

(b) Each flea market vendor shall:

- (1) Recycle cardboard.
- (2) Have a copy of the regulations contained within this article in their designated booth area.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-121. Construction and development plan required.

All flea markets in the city shall submit a construction and development plan with their flea market operator permit application that is drawn to scale and which details (1) the zoning district, (2) the sales area and booth arrangement, (3) any off-street parking area, (4) fire prevention and protection equipment, (5) fire lanes, (6) sanitary facilities, (7) pedestrian access aisles that are a minimum of six (6) feet in width, and (8) garbage and/or trash collection containers. A construction and development plan shall be submitted to the planning department with each and every annual flea market operator application, or any time there is a change in operator business ownership or property ownership, or any time there is a change of the approved construction and development plan. The planning department shall approve a proposed construction and development plan if it complies with the provisions of this article.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-122. Denial, suspension, revocation, and renewal of license.

- (a) If, after the flea market license provided for in this article has been issued, the planning department finds that the license was obtained by false representation in the application, such license may be revoked and or not renewed by the planning department.
- (b) Such license may also be suspended, revoked, and/or not renewed if the planning department finds that the holder of the license has (1) violated any provisions of this article, or (2) been convicted of a felony or a misdemeanor involving moral turpitude.
- (c) If, after submission of an application for a license, the planning department finds that the application does not qualify for a license or comply with the provisions of this article, then the planning department may deny the request for a license.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-123. Appeals from decisions by the planning department.

If the applicant for a flea market operator license under this article or the holder of such license is dissatisfied with any finding of the planning department, they shall have the right to appeal to the city council by filing a written notice, stating all the grounds for the appeal, with the planning department

within ten (10) calendar days from the date of such decision by the planning department and paying an appeal processing fee of one hundred twenty-five dollars (\$125.00). Upon the filing of such notice of appeal, the application for the license and all documents possessed by the planning department in connection with the application, license and certificate of occupancy shall be delivered to the city council. Such matter as may be in dispute shall then be heard by the city council at the next regular meeting after the filing of the appeal. The filing of the appeal shall operate as a stay or postponement of the action taken by the planning department until final adjudication of the matter, unless there is a significant life, health, or safety issue. The city council shall have the same powers and authority on such appeal as is vested in the planning department by this article. The decision of the city council is final and binding.

(Ord. No. 2013-14, § 1, 8-6-2013)

Sec. 19-124. Enforcement and penalty for violations.

- (a) It shall be the duty of the planning department, the public works department, the fire department, and the police department to enforce the provisions of this article.
- (b) Any person or corporation who shall violate any of the provisions of this article, or fails to comply therewith or with any of the requirements thereof, or shall build or alter any building or premises in violation of any detailed application, statement, or plan submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable to a fine of not more than five hundred dollars (\$500.00), with each and every day such violation shall be permitted to exist constituting a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this article shall be placed or shall exist, and any person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and, upon conviction thereof, be fined as hereinbefore provided.
- (c) In addition, this article may be enforced by injunctive relief, and a person or entity found to be in violation of this article may be assessed a civil penalty of not more than five hundred dollars (\$500.00) each and every day such violation shall be permitted to exist. If an injunction is granted, the court shall award the city its attorney fees and costs incurred in obtaining the injunctive relief.

(Ord. No. 2013-14, § 1, 8-6-2013)

