

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL REGULATIONS; LICENSING REQUIREMENTS

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LICENSE FOR EXHIBITIONS

§ 110.01 PERMIT REQUIREMENTS.

It shall be unlawful hereafter for any person, firm, corporation, association or joint stock company, to give, conduct, exhibit or maintain any show, performance, parade, place of exhibition or amusement of any character whatsoever, within the city limits, unless a permit to hold the exhibitions, parades, shows or performances is first obtained from the city, as herein provided.

(1980 Code, § 11.1) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994) Penalty, see § 10.99

§ 110.02 TYPE OF EXHIBITIONS.

Section 110.01 shall apply to all shows, performances, exhibitions, panoramic or view shows, menageries, carnivals, parades, wild west shows, or rodeo shows, acrobatic performances, dramatic or theatrical productions, skating rinks, wrestling arenas held in or exhibited upon the streets or under any tent, or in any airdome, hall or building within the city limits.

(1980 Code, § 11.2) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994)

§ 110.03 PERSONS RESPONSIBLE.

Each person aiding or abetting the holder of such exhibitions, parades or performances shall be equally guilty of a violation of this subchapter when the exhibitions, shows, parades or performances attempt to show or operate without a permit.

(1980 Code, § 11.3) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994) Penalty, see § 10.99

§ 110.04 APPLICATION FOR PERMIT.

All applications for a permit shall be made to the City Secretary/Administrator at least 20 days in advance of the proposed opening date or starting time of the exhibition, show, parade or performance and will be forwarded to the Chief of Police for review by him or her and who in turn will forward copies of the application to the Fire Chief and the Director of Public Works for their views and comments. The application will state whether the exhibition, show, parade or performance will be in a tent, building, city streets or open arena, number of persons, and estimated numbers of vehicles, floats, animals, motorized displays, marching units and bands therein.

(1980 Code, § 11.4) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994)

§ 110.05 ISSUANCE OF PERMIT BY CITY SECRETARY/ADMINISTRATOR.

If, in the opinion of the Chief of Police, the exhibition, show parade or performance appears to be composed of lawful amusements or is a lawful enterprise, he or she shall advise the City Secretary/Administrator to issue the permit upon the payment of the fee provided for, if applicable.

(1980 Code, § 11.5) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994)

§ 110.06 PERMIT ISSUANCE AND FEE.

No fee is required for permit issuance.
(1980 Code, § 11.6) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994)

§ 110.07 UNLAWFUL PLACE OF OPERATIONS.

It shall be unlawful for any exhibition, show or performance to operate, and no permit shall be issued for any exhibition, show or performance to operate within the space of 500 feet of the property line of any business house or residence, school building or church house within the limits of the city, for the reason such exhibitions, shows and performances invariably operate at night, and the business houses, residences, school buildings and church houses inviolable rest and quietude is disturbed with the exception of any parade like processions exhibiting, and performing in a lawful manner upon the city streets thereof.
(1980 Code, § 11.7) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994) Penalty, see § 10.99

§ 110.08 EXPIRATION OF PERMIT.

It shall be unlawful for any exhibition, show, parade or performance to operate in whole or in part, after its permit expires or after it is revoked for cause, and all persons assisting in the operation shall be guilty of an offense.
(1980 Code, § 11.8) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994) Penalty, see § 10.99

§ 110.09 POLICING OF EXHIBITIONS.

The City Police Chief and the city police officers shall have full supervision of the regulating and policing of all exhibitions, shows, parades and performances as set out in § 110.02 hereof.
(1980 Code, § 11.9) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994)

§ 110.10 CHARITABLE LOCAL EVENTS.

This law shall not apply except for the normal application and issuance of a permit for ample planning time to events, street fairs, parades, shows or the like composed entirely of local people banded together for purely civic or charitable purposes and without personal profit to themselves, individually.
(1980 Code, § 11.10) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994)

§ 110.11 NONPROFIT ORGANIZATIONS.

Neither shall the provisions of this law apply to an organization duly incorporated under the laws of

the State of Texas, composed of local stockholders, holding a nonprofit sharing charter, for the purpose of holding intermittent events whose purpose is advancement or better living conditions, better agriculture, more and better livestock, more efficient farm and home equipment in the county, and for the advancement of the potential possibilities of the city, industrially, commercially and financially, with the exception of obtaining an application and permit for the sole purposes of ample planning time such applied events therein.

(1980 Code, § 11.11) (Ord. passed 8-6-1952; Am. Ord. passed 2-10-1994)

§ 110.12 GUIDELINES FOR PARADE-LIKE PROCESSIONS.

(A) Fee - no fee for civic groups and nonprofit organizations.

(B) Advance notice - permit application to be submitted in time for ample planning to be upheld because advance notice and planning are necessary to preserve public order and welfare and to protect both the interests of the public and those who parade and a reasonable time is necessary to provide proper staffing of police personnel for traffic and crowd control, usually 20 days before parade.

(C) Date and time of parade - alternate date and time.

(D) Route and exit route of parade - alternate route and exit route.

(E) The estimated number of persons to participate in the parade.

(F) The estimated number of vehicles, floats, animals, motorized displays and the like to be utilized in the parade.

(G) The estimated number of marching units, bands, color guards, drill teams and the like to participate in the parade.

(H) The name, address and telephone number of any organization, firm, association, corporation or other entity on whose behalf application is made.

(I) The sponsoring group or organizations should so note on their parade entry blanks that all operating a nonregistered vehicle in the parade route will follow the written route as designated on the entry form until the parade route is completed and they have reached the place of disbandment where they will load, tow or remove the vehicle from the area so as to not violate the law.

(J) Applicant's name must be signed before an officer authorized to administer oaths, along with a copy of an appropriate resolution of the governing body of the sponsored parade indicating its sponsorship of the parade and authorizing the applicant to act in its behalf in securing a permit thereof.

(K) Upon receipt of an application for parade permit, the Chief of Police will forward a true copy of same to the Fire Chief and Director of Public Works with a request for comments thereon.

(L) A parade permit may only be denied or revoked if the information contained in the application is found to be false or incomplete in any material aspect or the permittee fails to obey any lawful order of the Chief of Police, Fire Chief, Fire Marshal or their respective designees, respecting the conduct of the parade, or any term or condition to which the approval of the parade permit is made subject.

(M) Upon issuance of a parade permit (10 days before parade) the Chief of Police shall forward a true copy of same to the Fire Chief, Director of Public Works and the City Secretary/Administrator. (1980 Code, § 11.13) (Ord. passed 2-10-1994)

GARAGE SALE PERMITS

§ 110.25 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSONAL PROPERTY. Described as clothing, glassware, toys, books, kitchen appliances, household goods, shop tools and equipment, lawn tools, mowers and the like.

RESIDENTIAL AREA. Residential property, as is described by the city zoning ordinance as R-1, R-2, R-3, R-4, zoned districts.
(Ord. 901108, passed 11-8-1990)

§ 110.26 EXCLUSION.

(A) This subchapter is not intended to be used to sell agricultural produce in residential areas.

(B) This subchapter is not intended to be used to sell any other product that is described as a part of the business zoned districts.
(Ord. 901108, passed 11-8-1990)

§ 110.27 PERMITS.

(A) The City Secretary/Administrator shall issue a temporary use permit for the purpose of permitting an individual to sell his or her personal property on his or her residential property, provided the following conditions and requirements are met.

(B) (1) Such sales shall not be conducted longer than 72 hours or 3 days in length.

(2) Such sale permits may only be issued to the same individual 3 times in a calendar year.
(Ord. 901108, passed 11-8-1990)

§ 110.28 ENFORCEMENT.

(A) Temporary permits shall be issued by the City Secretary/Administrator at the City Hall.

(B) The Police Department shall enforce this subchapter.
(Ord. 901108, passed 11-8-1990)

§ 110.29 PERMIT FORM.

The form for the garage sale permit is set forth in Appendix A to this chapter.
(Ord. 901108, passed 11-8-1990)

DRILLING AND MINING

§ 110.40 DRILLING AND MINING; PERMIT REQUIRED.

(A) It is unlawful to commence the drilling or an oil and/or gas well or any mining operation within the corporate limits of the City of Quitman, Texas, without first obtaining a drilling/mining permit from the City Council. The Quitman City Council may require the applicant to submit sufficient information in regard to the drilling/mining application.

(B) Based on the information submitted and other pertinent facts, the Council shall either grant or deny the permit in a timely manner.
(Ord. 900213, passed 2-13-1990) Penalty, see § 10.99

APPENDIX A: GARAGE SALE PERMIT FORM

The form for the garage sale permit is as follows:

**CITY OF QUITMAN
GARAGE SALE PERMIT**

NAME: _____

ADDRESS: _____

FIRST DAY OF SALE: _____

LAST DAY OF SALE: _____

HOURS: _____ A.M. TO _____ P.M.

Approved by _____ on _____.

!!!! YOU MUST REMOVE ALL SIGNS THE LAST DAY OF SALE !!!!!

(Ord. 901108, passed 11-8-1990)

CHAPTER 111: ITINERANT MERCHANTS, VENDORS AND PEDDLERS

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ITINERANT VENDORS**§ 111.01 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL PRINTED MATTER. Any printed or written matter, whether a sample, device, leaflet, circular, pamphlet, paper or booklet, whether printed, reproduced or copied, which:

- (1) Advertises for sale any merchandise, product, commodity or service;
- (2) Directs attention to a business or commercial establishment or other activity for the purpose of either directly or indirectly promoting sales;
- (3) Directs attention to or advertises a meeting, performance, exhibition or event for which an admission fee is charged for private gain or profit, but does not include a meeting, performance, exhibition or event for which an admission fee is charged or a collection is taken up only for the purpose of defraying expenses; or
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

GOODS. Any ***GOODS***, wares, merchandise, livestock, poultry, other wild or domesticated creatures, and all other tangible personal property of any nature whatsoever, but shall not include natural botanical and agricultural products, food and beverages intended for human consumption, and securities, policies of insurance and other intangibles.

ITINERANT VENDOR. Any person (whether or not a resident of the city) who engages in the transient business of selling goods within the city. The term ***ITINERANT VENDOR*** shall include any agent, independent, contractor, employee or other representative of any such person.

PERSON. Any individual, corporation, partnership, association or legal entity.

PUBLIC PROPERTY. Any property open or devoted to public use or owned by the city, county, state or federal government, including but not limited to parks, buildings, sidewalks, streets and public parkways.

SALE or SELLING. Shall include the exchange of goods, wares or merchandise in exchange for consideration, or the offer, exhibition, solicitation or taking of orders for the sale of goods, wares or merchandise, or the distribution of commercial printed matter in aid of any such sale.

TRANSIENT BUSINESS. The sale of goods in or on any real property within the city owned, leased or rented by the vendor for a period of at least 60 consecutive days.
(Ord. 920514, passed 5-14-1992)

§ 111.02 ON PUBLIC PROPERTY.

(A) Except as herein provided, it shall be unlawful for any itinerant vendor to sell any goods on public property or to distribute commercial printed matter in aid of any such sale.

(B) It is a defense to prosecution under this section that the person selling goods on public property was:

(1) Doing so, in connection with official government business;

(2) Doing so by authority of a contract, lease or other agreement with the city, county, state or concession on designated areas of public property; or

(3) Doing so under the authority of some other valid permit issued by the city.
(Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

§ 111.03 ON PRIVATE PROPERTY; PERMIT REQUIRED; APPLICATIONS.

(A) It shall be unlawful for any itinerant vendor to sell goods on private property within the city without an itinerant vendor's permit issued in accordance with the provisions of this subchapter.

(B) The permit required by the preceding division (A) shall be secured prior to the actual sale, offer, exhibit or solicitation of orders for the sale of goods by an itinerant vendor.

(C) Application for an itinerant vendor's permit may be secured during business hours at the City Hall, Quitman, Texas 75783.

(D) At the time of application, each itinerant vendor shall provide, at a minimum, the following data for identification of the applicant and each employee, agent or representative who will sell, offer, exhibit

or solicit orders on his or her behalf:

- (1) Name;
 - (2) Address (residence and business);
 - (3) Social security number;
 - (4) Date of birth;
 - (5) Telephone numbers (residence and business);
 - (6) Name and address of the person, corporation or other entity from whom the goods, wares or merchandise to be sold is secured (sources of goods);
 - (7) Recent photograph (or photocopy of the same) of applicant and all employees, agents or representatives;
 - (8) Current driver's license number of applicant and all employees, agents or representatives;
 - (9) A written statement, signed and dated by the owner of the private property on which the vendor proposes to sell, evidencing the consent of the owner to the sale of goods thereon by the vendor; and
 - (10) A true and correct copy of the applicant's current state sales tax permit or, in the event the applicant is an agent, employee or representative of another, a true and correct copy of his or her principal's current state sales tax permit.
- (E) Each application for itinerant vendor's permit shall be accompanied by a permit fee in the amount to be set by the City Secretary/Administrator with approval of the City Council; an additional fee, also set by the City Secretary/Administrator, shall be required for each employee, agent or representative of the applicant vendor who will sell, offer, exhibit or solicit orders for the sale of goods, wares or merchandise for or on behalf of the applicant vendor.
- (F) Each itinerant vendor shall be required to receive his or her permit in person and acknowledge receipt thereof on a form provided for this purpose by the City Secretary/Administrator.
- (G) Each itinerant vendor's permit issued under this subchapter shall be valid for a period up to 90 days from the date of issuance and each permit shall state the term, which fee set to be \$20 and \$2 for each employee.
- (H) The primary term indicated in the preceding division (G) may be extended once for up to an additional 45 days by filing a renewal application on a form provided for this purpose by the office of the City Secretary/Administrator prior to the expiration day of the primary permit term.

(I) Each renewal application shall be accompanied by a permit renewal fee of \$10 for each applicant vendor and \$2 for each employee, agent or representative selling, offering, exhibiting or soliciting orders for the sale of goods on behalf of the applicant vendor.

(J) A permit issued under the authority of this subchapter constitutes a purely personal privilege which may not be sold, assigned or otherwise transferred and shall not inure to the benefit of a person other than the original permit holder.

(K) Notwithstanding the issuance of a permit hereunder, no itinerant vendor shall sell goods in an area or zoning district or upon premises where such activity is prohibited or restricted or in violation of any law or ordinance otherwise prohibiting, restricting or regulating the activity.
(Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

§ 111.04 DISPLAY OF PERMIT; UNAUTHORIZED USE AND REPRODUCTION PROHIBITED.

(A) A permit issued under this subchapter shall be prominently displayed in a conspicuous place such that the same may be easily read at any time during the sale, offer exhibition, or solicitation of orders for the sale of goods.

(B) It shall be unlawful for an itinerant vendor or any employee, agent or representative of the itinerant vendor to sell goods in the city without prominently and conspicuously displaying his or her itinerant vendor's permit as required in the preceding division (A).

(C) It shall be unlawful for any person to present, display, or to sell goods within the city under the authority of an itinerant vendor's permit issued to another.

(D) It shall be unlawful for any itinerant vendor to fail or refuse to display or exhibit his or her itinerant vendor's permit or other identification upon request by the City Secretary/Administrator or his or her designee, any member of the city Police Department or other law enforcement officer or any citizen.

(E) It shall be unlawful for any itinerant vendor to sell goods under the authority of any false, counterfeit, invalid or altered itinerant vendor's permit.
(Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

§ 111.05 EXEMPT ACTIVITIES.

This section shall not apply to the following activities:

(A) *Non-retail sales.* The sale of goods by a manufacturer or wholesaler to a retailer or to another

wholesaler having a permanent place of business within;

(B) *Religious and charitable sales.* The sale of goods by any religious, charitable, philanthropic, scholastic or eleemosynary institution, organization or association;

(C) *Trade shows.* The sale of goods at any convention, trade fair, trade mart, trade show or similar function held at a municipal convention center;

(D) *Arts and crafts fairs.* The sale of goods at an arts and crafts fair or similar event held;

(1) Within a structure on private property that is entirely enclosed; and

(2) With no outside display of goods, wares or merchandise; and

(3) In compliance with all zoning, health and sanitation and other applicable codes; or

(4) Outdoors on the grounds of the municipal convention center or other municipal property including city streets and alleys, provided that such events are conducted in compliance with all ordinances and regulations appertaining thereto and each such event receives prior approval of the City Council.

(E) *Home occupation.* The sale of goods in connection with a home occupation lawfully conducted in accordance with this code of ordinances, governing zoning, and other applicable laws and ordinances;

(F) *Insurance, securities, other intangibles.* The sale of insurance contracts, securities or other intangibles;

(G) *Produce.* The sale of raw agricultural products, flowers or produce;

(H) *Garage sales.* The sale, offer, exhibition or solicitation of orders for the sale of goods at a garage sale held on private residential premises;

(I) *Newspapers, periodicals.* The sale of newspapers or periodicals done in a manner as not to obstruct or impede pedestrian or motor vehicle traffic;

(J) *Food products.* The sale of food, beverages or other commodities intended for human consumption by authority of a permit issued by the Wood County Health Department or otherwise in accordance with all laws, ordinances and regulations applicable thereto;

(H) *Noncommercial printed matter.* The sale or distribution of printed matter that is not commercial printed matter, including but not limited to newspapers, magazines, books and the like, where the sale is otherwise than from a coin-operated machine as described in division (I) above; or

(I) *Flea markets.* Flea markets operated in conformity with and as authorized by §§ 111.45 through

111.52.

(Ord. 920514, passed 5-14-1992)

§ 111.06 DENIAL, SUSPENSION, REVOCATION OF PERMIT NOTICE.

(A) The City Secretary/Administrator may deny, suspend or revoke an itinerant vendor's permit where he or she determines that:

(1) The vendor has given false or misleading information in his or her application for itinerant vendor's permit;

(2) The vendor has sold goods in violation of this subchapter or violated other applicable laws and ordinances, pertaining to such activity in the course of the sale;

(3) The vendor has employed, contracted or otherwise associated or enlisted vendors without a permit as agents, employees or representatives to sell offer, exhibit or solicit orders for the sale of goods in violation of this subchapter;

(4) The vendor has unlawfully permitted another person to sell goods while displaying an itinerant vendor's permit issued to the vendor;

(5) The vendor has unlawfully duplicated, reproduced or altered an itinerant vendor's permit for the purpose of circumventing the provisions of this subchapter;

(6) The vendor presents or exhibits a false, counterfeit or altered itinerant vendor's permit to the City Secretary/Administrator or his or her designee, or to any law enforcement officer;

(7) The vendor fails to display conspicuously his or her itinerant vendor's permit in the course of selling goods within the city;

(8) The vendor engages in the sale of goods of a character or in such a manner as to endanger the health, safety, morals or welfare of the public;

(9) The vendor fails to obey any lawful order of the City Secretary/Administrator, his or her designee, or any law enforcement officer having jurisdiction within the city;

(10) The vendor fails to appear in the Municipal Court with respect to a summons or citation issued for violation of this subchapter;

(11) The vendor fails to supply requested information pertaining to his or her state sales tax permit;

(12) The vendor is found to be selling goods at retail without a valid state sales tax permit;

(13) The vendor violates any law or regulation of the State of Texas pertaining to registration, filing or reports, or payment of any applicable state sales tax; or

(14) The vendor's state sales tax permit is suspended, expires or is revoked under state law.

(B) Where the City Secretary/Administrator denies, suspends, revokes a permit issued under this subchapter, he or she shall within 5 days of that action forward written notice to the applicant setting forth the reasons therefor. Upon receipt of a notice of suspension or revocation, an itinerant vendor shall forth with cease and refrain from the sale, offer, exhibition, or solicitation or taking of orders from the sale of goods within the city and from the distribution of commercial printed matter in aid of the sale. (Ord. 920514, passed 5-14-1992)

§ 111.07 APPEAL PROCEDURE; FINAL DECISION.

(A) Any person aggrieved by the denial, suspension or revocation of an itinerant vendor's permit hereunder may appeal the action within 10 days from the date thereof in the manner and in accordance with the procedures set forth.

(B) In the absence of an appeal made in accordance with the procedures above described, the decision of the City Secretary/Administrator shall be final.

(C) Where an appeal is timely prosecuted as above provided, the finality of the decision thereon shall be governed by the rules set forth. (Ord. 920514, passed 5-14-1992)

RELIGIOUS SOLICITATIONS IN PUBLIC PLACES

§ 111.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC PLACE. Any property open or devoted to public use.

RELIGIOUS PURPOSE. The use of money or property for the support of a church, religious society or other religious sect, group or order.

RELIGIOUS SOLICITATION. Conduct whereby a person, organization, society, corporation or its agent, member or representative does either of the following divisions (1) or (2) on the plea or representation, whether express or implied, that the proceeds from the solicitation or sale are for a

religious purpose:

- (1) Solicits property, financial aid, gifts in money or any article representing monetary value;
- or
- (2) Sells or offers to sell a product, article, tag, service or printed material.
- (Ord. 920514, passed 5-14-1992)

§ 111.16 REGISTRATION REQUIRED.

(A) A person who engages in religious solicitation in a public place shall first register with the City Secretary/Administrator, giving the following information:

- (1) Name of registrant;
- (2) Name of organization receiving the funds;
- (3) Duration and locations of proposed solicitations;
- (4) Number of participants; and
- (5) A general description of product sold or method of solicitation.

(B) Registration expires after 1 year and must be renewed annually. If a change occurs in any of the information submitted with the registration the person or organization shall notify the City Secretary/Administrator for the change.

(C) If a person, organization, society or corporation conducting a religious solicitation obtains a charitable solicitation permit in compliance with this chapter, that person, organization, society or corporation is not required to comply with the requirements of this section.

(Ord. 920514, passed 5-14-1992)

§ 111.17 PROHIBITED CONDUCT.

A person engaged in religious solicitation in a public place shall not:

- (A) Misrepresent the religious purpose of the solicitation; or
 - (B) Misrepresent the religious affiliation of those engaged in the solicitation.
- (Ord. 920514, passed 5-14-1992)

§ 111.18 USE OF STREETS PROHIBITED.

It shall be unlawful for any person, firm or corporation to engage in religious solicitation upon the streets or parkways of the city.

(Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

§ 111.19 EXCEPTIONS.

(A) The provisions shall not apply to the sale of:

(1) Any food; or

(2) Any ticket to an entertainment event, dinner, breakfast or luncheon, sports event, benefit dance, fair, bazaar or other type of organized social activity, provided that the activity for which ticket is sold actually occurs on the date and time and at the place as represented by the ticket seller. It is a defense to prosecution under this section that the event did not occur for reasons beyond the control of the ticket seller or promotor and that a bona fide attempt was made to refund all tickets sold.

(B) It shall not be necessary for the City Attorney to negate exceptions in the accusatory pleading and prosecution of cases arising under this chapter.

(Ord. 920514, passed 5-14-1992)

HOME SOLICITATION TRANSACTIONS**§ 111.30 DEFINITIONS.**

For the purpose of this subchapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BUSINESS DAY. Any calendar day except Saturday, Sunday, or any state or national holiday.

CONSUMER. An individual who seeks or acquires real or personal property services, money or credit for personal, family or household purposes.

CONSUMER TRANSACTION. A sales transaction in which 1 or more of the parties is a consumer.

HOME SOLICITATION TRANSACTION. A consumer transaction for the purchase of goods, services or realty, payable in installments or in cash, in which the merchant engages in a personal solicitation of the sale to the consumer at a residence, in person or by telephone, and the consumer's

agreement or offer to purchase is given at the residence to the merchant either in person or by telephone. A **HOME SOLICITATION TRANSACTION** shall not include a sale made pursuant to a preexisting revolving charge account or retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale; or a sale of realty in which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

MERCHANT. A party to a consumer transaction other than a consumer.

PERSON. An individual, corporation, trust, partnership, association or any other legal entity.

RESIDENCE. Any separate living unit occupied for residential purposes by 1 or more persons, contained within any type of building or structure.
(Ord. 920514, passed 5-14-1992)

§ 111.31 SOLICITATIONS PERMITTED ONLY DURING CERTAIN HOURS.

(A) No person shall go upon any residential premises and ring the doorbell, or rap or knock upon a door or create any sound in a manner calculated to attract the attention of the occupant of the residence, or by telephone contact the occupant of any residence, for the purpose of engaging in or attempting to engage in a home solicitation transaction, prior to 9:00 a.m. or after 6:00 p.m. of any day, Monday through Saturday, or at any time on a Sunday, New Year's Day, July Fourth, Labor Day, Thanksgiving Day or Christmas Day.

(B) This section shall not apply to a visit to the premises as a result of a request made by the occupant.

(C) This section shall not preempt federal and state law, regulations and/or laws which may be in conflict. This section is merely intended to supplement the federal and state regulations and laws when permissible.

(Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

FLEA MARKETS

§ 111.45 DEFINITIONS.

As used in this subchapter, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:

FLEA MARKET. A market, indoors or out-of-doors, where new or used items are sold to the general public from individual locations, with each location being operated independently from the other locations. Items sold include but are not limited to household items, antiques, rare items, decorations, used books and used magazines.

FLEA MARKET SELLER. A person, firm or corporation selling items or offering items for sale at a flea market.

MARKET. A place where goods are sold to the public.
(Ord. 920514, passed 5-14-1992)

§ 111.46 PERMIT REQUIRED; FEE.

(A) No person, firm or corporation shall operate the business of renting space or allocating space to flea market sellers without first obtaining a permit therefor. Applications for permits shall be made to the City Secretary/Administrator on forms to be provided by City Secretary/Administrator. Only 1 permit shall be required for each flea market, and the individual flea market sellers shall not be required to obtain a permit under this section.

(B) The fee for such permit shall be \$100 per year.
(Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

§ 111.47 RECORDS TO BE KEPT BY PERMIT HOLDER.

Each permit holder for a flea market shall maintain a record of every vendor participating in each such flea market for at least 1 year from the date of the last sale made by each vendor. The record required by this section shall include the name, business and residential address, business and residential telephone number, and federal tax identification number or social security number of each vendor.
(Ord. 920514, passed 5-14-1992)

§ 111.48 EXCEPTIONS.

(A) No person, firm or corporation operating as a secondhand store shall be required to obtain a permit under this chapter for the same business location.

(B) Garage sales are exempt from coverage under this subchapter.
(Ord. 920514, passed 5-14-1992)

§ 111.49 MORE THAN 1 MARKET.

Any person, firm or corporation renting or allocating space to flea market sellers in more than 1 place of business shall be required to obtain a permit for each place of business, provided that 1 permit shall be adequate for locations that are on the same lot, adjacent lots or lots separated only by an alley. (Ord. 920514, passed 5-14-1992)

§ 111.50 UNLAWFUL TRANSACTIONS.

No person shall sell or offer for sale, at any flea market, any goods known to the person to be stolen or mortgaged. (Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

§ 111.51 PURCHASES FROM CHILDREN.

No flea market seller shall purchase any used household item, antique or used article whatsoever from any person under the age of 18 years, unless the person is accompanied by the person's parent or guardian. (Ord. 920514, passed 5-14-1992) Penalty, see § 111.99

§ 111.52 PARKING.

(A) *Indoor markets.* Shall provide and adequately maintain off-street parking for occupants, employees and patrons.

(B) *Outdoor markets.* Shall provide and adequately maintain off-street parking for occupants, employees and patrons at a rate of 1 parking space per every separate booth space occupied leased or reserved.

(Ord. 920514, passed 5-14-1992)

ENFORCEMENT

§ 111.65 VIOLATIONS.

Each sale, offer, exhibition, solicitation, taking of orders or distribution of commercial printed matter in aid of the sale of goods in violation of this subchapter shall constitute a separate offense.

(Ord. 920514, passed 5-14-1992)

§ 111.66 ENFORCEMENT.

The City Secretary/Administrator, his or her authorized designee, or any officer of the Quitman Police Department is authorized to issue summons and citations, as applicable, for violations of this subchapter.

(Ord. 920514, passed 5-14-1992)

§ 111.99 PENALTY.

A person, firm or corporation violating any provision of this chapter is be subject to a fine of not less than \$25 nor more than \$250 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 920514, passed 5-14-1992)

CHAPTER 112: AMUSEMENTS

Section

Pool Hall and Game Rooms

- 112.01 Definitions
- 112.02 Operation within certain areas
- 112.03 License requirements
- 112.04 Term of license
- 112.05 Alcoholic beverages
- 112.06 Revocation of license
- 112.07 Inspection

POOL HALL AND GAME ROOMS

§ 112.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BILLIARD TABLE or ***POOL TABLE***. Any table, whether coin-operated or not, surrounded by a ledge or cushion with or without pockets upon which balls are impelled by a stick or cue.

ELECTRONIC GAMES. Any marble machine, slot machine, coin machine or other similar machine used for public amusement.

GAME ROOM. Any building, room, structure or any other place, in which is exhibited for hire, revenues, fees or gain of any kind any type of electronic game.

POOL HALL. Any building, room, structure or any other place, in which is exhibited for hire, revenue, fees or gain of any kind any pool or billiard table.
(1980 Code, § 5.1)

§ 112.02 OPERATION WITHIN CERTAIN AREAS.

No one, acting for himself or herself or for another person, shall operate or maintain a pool hall or game room, as that term is defined in this subchapter, within 300 feet of any church or school. This measurement shall be determined by the distance from the center of the main entrance of one building to the center of the main entrance of the other building.

(1980 Code, § 5.2) Penalty, see § 10.99

Editor's note:

This provision was established by City Council ruling October 13, 1997.

§ 112.03 LICENSE REQUIREMENTS.

(A) It shall be unlawful for any person, firm, association of persons, corporations and every other organization, save and except religious, charitable or educational organizations, authorized under the laws of the state, to own and operate, for profit, any pool or billiard table or tables or electronic games, as such terms are herein defined, within the city except where specified, without having first obtained an appropriate license from the City Secretary/Administrator, as herein provided; which license shall at all times be displayed in some conspicuous place within the licensed place of business.

(B) The fee for such license shall be \$100 per year.

(C) As provided by the laws of the state, bona fide religious, charitable or educational organizations, and those persons operating billiard tables and electronic games under the authority of such religious, charitable or educational organizations, are exempt from the provisions of this subchapter.

(1980 Code, § 5.3) Penalty, see § 10.99

Editor's note:

The license fee was specified in Book 3, page 216, minutes.

§ 112.04 TERM OF LICENSE.

Any license issued pursuant to this subchapter shall be for 1 year and shall be nontransferable.
(1980 Code, § 5.4)

§ 112.05 ALCOHOLIC BEVERAGES.

The sale of alcoholic beverages or beverages in or on the premises licensed hereunto is hereby prohibited. No person, firm, association of persons, corporations and every other organization authorized under the laws of the state, licensed hereunder, shall knowingly permit the sale, use or consumption of any kind of alcoholic beverage or beverages in or upon the premises for which a license has been issued, as provided in this subchapter.

(1980 Code, § 5.5) Penalty, see § 10.99

§ 112.06 REVOCATION OF LICENSE.

The City Council is hereby authorized and empowered to revoke or cancel the license of any person, firm, association of persons, corporations and every other organization authorized under the laws of the state, licensed to own and operate a pool or billiard table or tables or electronic games hereunder, after giving the licensee 10 days' notice of a hearing and after conducting the hearing for the purpose of determining whether the license should be revoked; provided, however, that such power of cancellation or revocation shall be exercised only under the following conditions:

(A) For the violation of any of the provisions of this subchapter;

(B) For knowingly permitting the sale, use or consumption of any alcoholic beverage or beverages in or upon the premises licensed hereunder;

(C) For violation of the prescribed hours of operation provided herein, if so provided;

(D) For knowingly permitting the presence on the premises of a person or persons under the influence of intoxicating liquor;

(E) For knowingly permitting disorderly conduct or immoral practices on the premises;

(F) For knowingly permitting the violation of the law or laws of the state or of the municipal code of this city.

(1980 Code, § 5.7)

§ 112.07 INSPECTION.

The Mayor shall appoint or designate the Chief of Police to make periodic inspections of the licensed premises, whose duty shall be to determine compliance with the building provisions, the maintenance of toilets and other sanitary facilities, and compliance with the health, plumbing, sanitary and other applicable laws of this city and of this subchapter.

(1980 Code, § 5.8)

CHAPTER 113: ALCOHOLIC BEVERAGES

Section

- 113.01 Definitions
- 113.02 Sale of alcohol
- 113.03 Consumption on public property
- 113.04 Drunkenness
- 113.05 Possession at school athletic events
- 113.06 Private beverage club permits

Cross-reference:

Alcoholic beverages in the city park, see § 93.03 of this code of ordinances

§ 113.01 DEFINITIONS.

For the purpose of this chapter, all definitions of words, terms and phrases as set forth in the Tex. Alcoholic Beverage Code are hereby adopted and made a part of this chapter.

(1980 Code, § 3.1) Penalty, see § 10.99

§ 113.02 SALE OF ALCOHOL.

It shall be unlawful for any person to sell or engage in the business of selling intoxicating liquor, beer or wine within the city, except as may otherwise be specifically provided by a provision of this Code.

{**Ordinance 082808-01**}

§ 113.03 CONSUMPTION ON PUBLIC PROPERTY.

It shall be unlawful for any person to consume any alcoholic beverage while on any public property.

(1980 Code, § 3.3) Penalty, see § 10.99

§ 113.04 DRUNKENNESS.

Whoever shall be found in a state of intoxication in any public place shall be fined not more than \$200.

(1980 Code, § 3.4) Penalty, see § 10.99

§ 113.05 POSSESSION AT SCHOOL ATHLETIC EVENTS.

It shall be unlawful for any person to bring, or carry or consume in any enclosure, field or stadium where athletic events sponsored or participated in by any public school are being held, any alcoholic beverage or to have any alcoholic beverage in his or her possession while in or on the enclosure, field or stadium.

(1980 Code, § 3.5) Penalty, see § 10.99

§ 113.06 – PRIVATE BEVERAGE CLUB PERMITS

(A) Definition of a Private Club and Prohibition Without City Permit

No individual or group operating a ‘private beverage club’ as defined by and with a license as provided under the Texas Alcoholic Beverage Code may not serve alcohol within the City Limits unless and until a Private Beverage Club Permit for such use has been approved by the City Council and issued by the City Secretary-Administrator.

(B) Location of Club

(1) A private beverage club shall be permitted to operate only as a secondary use to and in a:

- (a) General restaurant;
- (b) Restaurant in an office complex;
- (c) Motel;
- (d) Hotel;
- (e) Country club; or
- (f) Nationally recognized private social/fraternal organization.

(2) A private beverage club shall not be permitted in a drive-in, fast food, or take-out only restaurant.

(3) A private beverage club shall not be permitted within three hundred (300) feet of any church, hospital, public park, public school, or parochial school. The three hundred (300) foot distance shall be measured and defined by applicable state laws.

(4) A private beverage club shall not be permitted for any property that is currently in a non-conforming use status as defined by the Zoning Ordinances of the City.

(C) No Advertising

There shall be no signs advertising the sale of or otherwise promoting alcoholic beverages.

(D) Compliance with Laws

The private beverage club shall comply with all City, County, State and Federal laws.

(E) Membership

All persons consuming or in possession of an alcoholic beverage in a club shall be a member of the club or guest of a member, as defined by the Texas Alcoholic Beverage Code.

(F) Limitation of Access

Any bar or lounge room shall be designed such that patrons can only enter from an area within the primary use: i.e. lobby, waiting area, dining room, etc. Emergency exits direct to the outside are permitted.

(G) Termination of Existing Private Club Status

A private club, as defined herein, existing at the time of the adoption of this ordinance may be continued, except as hereinafter provided, although such use is not permitted according to the provisions hereof; provided, however, that any of the following occurrences shall require conformity with the provisions of this ordinance:

- (1) Failure to operate the "private club", as defined in this ordinance, for a period of thirty (30) days.
- (2) Transfer of the license or permit by the Alcoholic Beverage Commission of the State of Texas;
- (3) Revocation of the license or permit by the Alcoholic Beverage Commission of the State of Texas,
for a period of no less than thirty (30) days.

(H) Application Submittal and Fee

The City Secretary-Administrator is authorized to accept permit applications and collect a fee for each permit application in the amount of two hundred dollars (\$200.00). No permit application shall be accepted until such fee has been paid in full. The permit application fee shall not be refundable under any circumstances once the application has been accepted.

(I) Procedure for Obtaining Specific Use Permit

Specific use permit applications may be filed only by the owner of the property on which the private beverage club will be operated or by the property owner's authorized agent. Any party desiring to obtain a specific use permit under the terms of this article shall make written application to the City Secretary, who shall furnish appropriate forms for this purpose. Said application shall contain the following:

- (1) Name of applicant;

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- (2) Address;
- (3) Age of applicant;
- (4) Telephone number;
- (5) Number of years residence at address;
- (6) Whether applicant has ever operated a private club before;
- (7) If so, where, when, for how long, and reason for discontinuing;
- (8) Police record (other than traffic violations), if any;
- (9) At least three (3) creditable references who can attest to applicant's past record, good character and reputation.
- (10) Location of proposed private beverage club and primary use of location;
- (11) Years in operation at proposed location;
- (12) A site plan / map and other information to address development and design standards as detailed under the subsection J of this Section; and
- (13) Any other pertinent remarks by applicant.

(I) Application and Processing Requirements

The application permit fee shall be paid at the time of making application and a copy of the receipt of payment of said fee will be attached thereto.

(J) Council Action Required

- (1) The application shall be posted as an agenda item and acted upon at a regularly scheduled council meeting no more than 30 days following application submittal. Prior to action on the application, the City Council must hold a public hearing in accordance with the provisions of this Code regarding public hearings.
- (2) The City Council, in considering each permit request, will review the overall compatibility of the proposed use with surrounding property as well as such specific items as screening, parking, and landscaping to make sure that the impact of the specific use is minimal and that little or no adverse effects occur to nearby property. The following development standards and design specifications can or may be the basis for approval of a specific use permit:
 - (a) The design, location, and operating plans must be such that the safety of the public is protected.
 - (b) Consideration of the use of adjacent land within 200 feet.
 - (c) The location and dimensions of all public rights-of-way on or abutting the proposed use.
 - (d) Existing and proposed vehicular and pedestrian circulation systems; including streets, alleys, walkways, service areas and loading areas, the location and

arrangement of off-street parking areas and all points of vehicular entrance and exit.

(e) The outdoor surfacing and paving for all parking and loading areas.

(f) The proposed perimeter treatment of the property, with indication of screening materials to be used, including fences, walls, and plants, together with a description of uses, setbacks and the relationship to surrounding areas.

(g) A landscape plan showing any proposed treatment of areas designated as either buffers or open space.

(h) The location and dimensions of all existing and proposed easements and public improvements on the site.

(i) The location and size of all structures, distances between buildings, and distances from structures to property lines.

(j) The location and description of all signage, including facade signs on buildings.

(k) The proposed use of all structures and their dimensions, i.e., height, floor areas, entrances, and loading areas.

(3) The City Council may impose any additional and specific conditions and restrictions upon the specific use under consideration with the intent of minimizing the impact of the use on nearby properties.

(4) Upon City Council approval, the City Secretary-Administrator shall issue said permit.

(K) Conditions

(1) Term and Duration of Approval

Private Beverage Club Permits approved for issuance shall be for a specific period of time not to exceed three (3) years.

(2) Revocation or Suspension

The City Council grants the authority to the City Secretary-Administrator to immediately suspend any Private Beverage Club Permit under the following conditions:

- (a) Failure to operate the premises as a "private club", as defined in this ordinance, for a period of thirty (30) days.
- (b) Transfer of the license or permit by the Alcoholic Beverage Commission of the State of Texas;
- (c) Revocation of the license or permit by the Alcoholic Beverage Commission of the State of Texas, for a period of no less than thirty (30) days.
- (d) Any violation of the terms of this section or the terms of the permit.

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(3) The holder of a permit suspended by the City Secretary-Administrator may request reinstatement of the permit and such request shall be posted as an agenda item and acted upon at a regularly scheduled council meeting no more than 30 days following the request.

(4) The City Council may at any time revoke a Private Beverage Club Permit after a public hearing as specified under this Code.

(5) No action may be taken to reinstate or revoke until the City Council holds a public hearing in accordance with the provisions of this Code regarding public hearings.

(L) Violations

Violation of any term, condition, requirement, or duration of a permit approved under this section is unlawful, and will constitute a violation of this code, and will subject the violator to the penalties set forth in Section 10.99 of this Code.

{Ordinance 082108-01, 08/21/08 (Section 113.06)}