

ORDINANCE NO. 2004 - 3

AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 3
OF THE PLANO CITY CODE AND REPEALING CHAPTER 4 OF TITLE 3 OF
THE PLANO CITY CODE
CITY OF PLANO, KENDALL COUNTY, ILLINOIS

WHEREAS, the City of Plano has heretofore adopted Chapter 3 of Title 3 of the Plano City Code, regulating Peddlers, Canvassers and Solicitors; and

WHEREAS, the City of Plano has heretofore adopted Chapter 4 of Title 3 of the Plano City Code, regulating Food Vendors; and

WHEREAS, the City Council desires to amend Chapter 3 of Title 3 and repeal Chapter 4 of Title 3 of the Plano City Code.

BE IT ORDAINED by the Mayor and City Council of the City of Plano, Kendall County, Illinois as follows:

SECTION 1. That Chapter 3 of Title 3 of the Plano City Code be amended, in its entirety, to read as follows:

**“CHAPTER 3
TRANSIENT BUSINESS LICENSES**

SECTION:

- 3-3-1 **Definitions**
- 3-3-2 **Location of Operation**
- 3-3-3 **Mode of Operation**
- 3-3-4 **Prerequisites to Conducting Business**
- 3-3-5 **License Requirements**
- 3-3-6 **Food Vendors and Merchants; Sanitary Requirements**
- 3-3-7 **Conditions of License**
- 3-3-8 **Inspections**
- 3-3-9 **Suspension of License**

3-3-10 Violations; Penalty

3-3-1: DEFINITIONS:

For the purposes of this Chapter, the words and terms defined in this section shall have the following meanings:

TRANSIENT BUSINESS: Any entity conducting business within the City of Plano which 1) does not intend to conduct business continuously for a twelve month period (except for normal holiday and vacation closures), and 2) does not conduct business in the City of Plano from a permanent building with street address, connected to public water and sewer services or private well and septic systems. Types of this business include, but are not limited to itinerant vendors, transient merchants, commercial solicitors, group sale events, peddlers, door to door salesmen, canvassers, and hawkers.

ITINERANT VENDORS: Any person who transports tangible personal property for retail sale within the City who does not maintain in this City an established office, distribution house, in-sales office, warehouse, or service center from which said business is conducted. However, this chapter does not apply to any person who delivers personal tangible property within this City who is fulfilling an order for such property which was solicited or placed by mail or other means.

TRANSIENT MERCHANT: Any person, who is engaged temporarily in the retail sales of goods, foodstuffs, wares or merchandise in the City and who, for the purpose of conducting such business, occupies any fixed location including but not limited to; any non-permanent structure of any kind, vacant lot, or vehicle. However, this chapter does not apply to any person selling vegetables, fruits, or perishable farm products at any established City market or from a stand or booth on property owned by him.

COMMERCIAL SOLICITOR: Any person, whether a resident of the City or not, traveling from place to place, from house to house, from building to building, or from street to street, and selling goods or taking or attempting to take orders for sales of goods for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he/she is collecting advance payments on such sales or not. This chapter does not apply to students of educational institutions located within the City limits participating in fundraising events or charitable activities.

GROUP SALES EVENT: Is a temporary event of three (3) or less consecutive days at a fixed location consisting of contiguous selling areas sponsored or arranged by a person, local unit of government or charitable or religious institution and which includes three (3) or more transient merchants, commonly known as a "flea market", "craft show", "antique market", or "farmer's market".

SPECIAL EVENT: This chapter does not apply to permanently established business holding short duration events on their premises or on other property within the City with the permission of the property owner. Such events could include tent sales, customer appreciation days, and similar events.

3-3-2: LOCATION OF OPERATION:

Itinerant Vendors and Transient Merchants may not operate within six hundred (600) feet of a church or a school, or within one hundred twenty (120) feet of either the north or south edge of right of way of Illinois Route 34 or within sixty (60) feet of either the north or south edge of right of way of Main Street.

3-3-3: MODE OF OPERATION:

- A. Itinerant vendors may operate only motorized vehicles and then only in the street or right of way.
- B. Non-motorized carts, wagons, trailers, or other contrivances may operate only as authorized by permit within certain City of Plano parks as follows:
 - 1 Such non-motorized vehicles or contrivances must be dropped at their fixed location no earlier than 9:00 am and be picked up no later than 8:00 pm each day. Under no circumstances shall they be pushed or walked to their location.
 - 2 All itinerant vendors shall display their City issued license at all times.
- C. No vendor may utilize pre-recorded music, chimes, bells or any electrically amplified device for the purpose of attracting public attention, which exceeds 60 decibels measured from a point no more than within fifty (50) feet from the sales area.

3-3-4: PREREQUISITES TO CONDUCTING BUSINESS:

- A. Compliance Requirements: It is a violation of this Chapter for any person, either as a principal or an agent, to conduct business as a transient merchant, itinerant vendor, commercial solicitor, or to conduct a group sales event without first:
 - 1. Complying with the requirements of the Retailer' Occupation Tax Act, to include obtaining a certificate of registration and posting the required bonds or other approved security.
 - 2. Complying with all requirements of the zoning district under the zoning

ordinance.

3. Obtaining a license under this chapter.

B. Prima Facie Evidence: It shall be prima facie evidence that a person is a transient merchant or itinerant vendor under this chapter if the person does not transact business from a fixed location in a permanent structure on property owned or leased for a period of not less than twelve (12) months by the person conducting said business.

3-3-5: LICENSE REQUIREMENTS:

A. Required: Any person who wishes to obtain a license as a transient merchant, itinerant vendor, commercial solicitor, or hold a Group Sales Event shall file a license application with the Office of the City Clerk, which is designated as the licensing agency.

B. Application: A completed license application must be submitted to the City Clerk not less than forty-five (45) days prior to the requested date to commence sales hereunder.

C. Contents of Application: This license application shall include, but not be limited to the following; the applicant's name, address of the residence of the principal (if the applicant is a corporation, the residential addresses of the officers of the corporation), the location at which the applicant proposes to do business, the nature of the business the applicant intends to conduct, a copy of the applicant's Certificate of Registration under the Retailer's Occupation Tax Act, a complete inventory of the goods the applicant intends to offer for sale, sureties or bonds, certificates of insurance, employee list, and a list of all licenses to conduct business as a transient merchant obtained in the twelve (12) month period prior to the application.

D. Term: A license shall be required for each calendar year in which an applicant transacts business in the City, as defined by this chapter and shall expire on December 31 of the year of issuance.

E. Each license application shall be accompanied by a License Application Fee of One Hundred (\$100.00) Dollars and the applicable Transient Business License Fee, all as set forth in the Application for Transient Business License set forth in Section 3-3-10.

F. Surety Bond: The applicant shall file with the City Clerk a surety bond or shall make a cash deposit, unless waived by the City Council. The amount of the bond or deposit shall be equal to fifty percent (50%) of the wholesale value of the merchandise that the applicant intends to offer for sale; however the amount of the bond or deposit shall not be less than one thousand dollars (\$1,000.00).

- G. Transfer of Bond to Attorney General: The City Clerk shall transfer said bond or deposit to the Attorney General of the State of Illinois within fourteen (14) days after the applicant ceases to do business in the City, and the Attorney General shall hold such bond or deposit for two(2) years for the benefit of any person who suffers loss or damage as a result of the purchase from said person licensed under this chapter or as a result of the negligent or intentionally tortuous act of the person licensed under this chapter. The Attorney General shall pay any portion of the bond or deposit to any person in accordance with the order of a court without making an independent finding as to the amount of the bond or deposit that is payable to that person. Any balance of said deposit held by the Attorney General two (2) years after the expiration of a license of a person under this chapter shall be refunded to the licensee.
- H. Failure to Obtain a License: If any person makes retail sales as a transient merchant, itinerant vendor, or commercial solicitor without first having obtained a license, the City Clerk may hold the inventory, truck, cart, or other personal property of the person until he obtains a license to conduct business. If the property has been held by the City Clerk for more than sixty (60) days and the person whose property is being held has not obtained a license, the City may petition the circuit court for an order of the sale of the property being held. If the court finds that the person whose property is held has not obtained a license, the court may order the City to sell the property. Proceeds of the sale of the property, less reimbursement to the City Clerk for the reasonable expenses of storage and sale of the property shall be deposited in the general funds of the City.

3-3-6: FOOD VENDORS AND MERCHANTS; SANITARY REQUIREMENTS: In accordance with all County and state health regulations:

- A. All vehicles, carts or other contrivances shall be kept in a clean and sanitary condition and shall be thoroughly cleaned each day they are so used.
- B. It shall be unlawful to permit any stale food, decaying matter or any other waste material or product to accumulate in, on, or around any such vehicle while it is so used. Vendors shall remove such matter from the premises on a daily basis.
- C. If unwrapped foodstuffs are transported in any such vehicle, such goods shall be carried in a portion or compartment of the vehicle which is screened or protected against dust and insects.

3-3-7: CONDITIONS OF LICENSE: Other licenses: Nothing contained in this chapter shall limit or preempt any other license or regulation which may be required by a person under this code.

3-3-8: INSPECTIONS: It shall be the duty of the Police Department to make or cause to be made such inspections as may be necessary to insure compliance with the provisions of this chapter.

3-3-9: SUSPENSION OF LICENSE: Any license issued under the provisions of this Chapter may be temporarily suspended by the Mayor for any violation of any section or regulation hereof, and such suspension shall be in addition to any fine imposed.

3-3-10: APPLICATION FOR TRANSIENT BUSINESS LICENSE:

**APPLICATION FOR TRANSIENT BUSINESS LICENSE
(Type or print)**

1) FOR WHICH LICENSE ARE YOU APPLYING?

_____ Itinerant Vendor - \$100.00 Application Fee
\$100.00 Annual Fee (per vendor)

_____ Transient Merchant - \$100.00 Application Fee
\$100.00 Annual Fee (per location)

_____ Commercial Solicitor- \$100.00 Application Fee
\$100.00 Annual Fee (per salesperson)

_____ Group Sales Event - \$100.00 Application Fee
\$100.00 Event Fee (per event)

2) Name of Applicant _____

3) Permanent Street Address _____

4) City, State, Zip Code _____

5) Telephone _____ Fax _____

6) Dates sales are to be commenced _____

7) Name, address, telephone and fax numbers of the person having supervisory or management responsibility of business that is proposed to be carried on in the City (If the

applicant is a corporation, list names of corporate officers of the corporation, if a partnership list *all* partners)

8) Name, address, telephone and fax numbers of person having custody of business's financial records

9) Names of municipalities or local units of government for which a similar license has been applied for within the twelve months prior to this application

10) Applicant's employer number for reporting to Internal Revenue Service

11) List the names and ages of all persons selling goods under this license.

12) List proposed location(s) where sales are to be conducted.

13) Have you previously held a similar license with the City of Plano? And if so when? _____

14) List the type of goods, foodstuffs, wares, merchandise or services that the applicant intends to offer for sale at the above location

15) Name of Manufacturer: _____

16) Attach bond with guarantees running to the City in the sum of not less than one thousand (\$1,000.00) dollars executed by the applicant as principal, with good and sufficient sureties upon which service of process made be made in the State of Illinois. The bond shall be in force and effect for no less than one (1) year from the date of this application.

17) Attach copy of certificate of registration under the State of Illinois Retailers Occupation Tax Act

18) Boundaries of area where peddling will be conducted: _____

19) Proposed Method of Operation: _____

20) If a motor vehicle is utilized for the sale of foodstuffs, list the following:

a) Make of Vehicle _____

b) Body Style _____

c) License Plate # _____

d) Licensing State _____

e) Driver(s) Name and Driver's License #

21) Attach a picture of the motor vehicle, cart, wagon, temporary structure or contrivance from which sales are to be conducted

22) Food Vendors: Attach copy of Kendall County Health permit

23) Food Vendors: Attach evidence of insurance (with the City of Plano named as additionally insured) that applicant is insured in an amount of not less than one hundred thousand (\$100,000.00) for property damage and injuries, including injury resulting in death, caused by the operation of the business.

24) Attach completed "Authorization for Police Record Search

I certify that the above information is correct to the best of my knowledge.

Name (please print) _____ Title _____

Signature _____ Date _____

AUTHORIZATION FOR POLICE RECORD SEARCH

I hereby authorize and empower the City of Plano and its agent, the Police Department of the City of Plano to conduct a police record search;

Signed on _____ at _____

Signature: _____

Name: _____

Please print (Last First M.I)

Alias Names Used (maiden name, etc.) _____

Address: _____

Telephone: _____

Date of Birth: _____ Height: _____ Weight: _____

Social Security Number: _____

Drivers License Number _____ State _____

3-3-11: VIOLATIONS; PENALTY:

- A. Penalty: any person who is convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be fined as provided in the General Penalty, Section 1-4-1 of this code.
- B. Settlement of Violations: Any person accused of a violation of this chapter may settle and compromise this claim of violation against him by paying to the City, within ten (10) days of the time such alleged violation or offense was committed, the sum of one hundred (\$100.00) dollars for each such violation

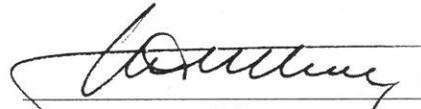
or offense. Consecutive violations of this chapter shall be treated as separate offenses. Payment of such claims or claims shall be made at the office of the City Clerk. The funds received from such compromised claims shall be promptly turned over to the City Treasurer to be credited to the general corporate fund. In the event such claim or claims are not paid within ten (10) days of the time of the alleged offense, a notice to appear or warrant may be issued for the arrest of the offender.”

SECTION 2. That Chapter 4 of Title 3 of the Plano City Code is repealed.

SECTION 3. This ordinance shall take effect and be in force from and after its passage, approval and publication as required by law.

PASSED by the City Council of the City of Plano, Kendall County, Illinois, on the 23 day of February, 2004.

SIGNED AND APPROVED by me, as Mayor of the City of Plano, on the 23 day of February, 2004.



Mayor

ATTEST:



City Clerk

PUBLISHED in the Plano Record on the 11 day of March, 2004.

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