

**ORDINANCE NO. 12052017-2**

**AN ORDINANCE AMENDING ORDINANCE 390 PROVIDING FOR THE REGULATION OF HEALTH AND SAFETY REQUIREMENTS & REGULATIONS APPLICABLE DURING THE POTEET STRAWBERRY FESTIVAL AND OTHER FESTIVALS AND EVENTS HELD IN THE CITY OF POTEET; PROVIDING FOR A MAXIMUM \$200 FINE FOR VIOLATIONS OF SUCH ORDINANCE; AMENDING PERMIT, INSPECTION AND CLEANING FEES; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of Poteet wishes to amend Ordinances 390 and modify the current safety regulations and health requirements in effect during the annual Poteet Strawberry Festival and other festivals or similar events held within the city; and

**WHEREAS**, the City Council of Poteet wishes to make modifications to the Ordinance that would continue to protect the health and safety of the public; and

**WHEREAS**, the City Council of Poteet finds it is in the best interest of the City to increase the permit fees, fire inspection fees and revise the cleanup deposit fees set out in this Ordinance.

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

**SECTION 1. REGULATION OF HEALTH AND SAFETY REQUIREMENTS FOR FESTIVALS AND EVENTS:**

**A.** It is ordained by the City of Poteet, Texas that certain regulations are hereby amended and shall be enforced with respect to temporary food service establishments at all venues of the Strawberry Festival of the City of Poteet as well as temporary food service establishments at all other festivals and events held throughout the year, which regulations set forth minimum equipment and health requirements. These regulations as set forth on attached **Exhibit “B”** shall be enforceable by the authorized representatives of the City of Poteet, Texas. Any person who violates any provision of the temporary food service establishment minimum health requirements shall be subject to punishment of a misdemeanor offense and upon conviction in the Municipal Court of the City of Poteet shall be assessed a fine not to exceed more than \$200.00 per violation. Each transaction or violation (each day violation continues is separate offense) of any provision of the Temporary Food Service Establishment Minimum Health Requirements shall be deemed a separate offense. See **Exhibit “D”** for quick reference fee list.

**B.** It is ordained by the City of Poteet that certain regulations are hereby amended and shall be enforced with respect to Vendor’s Regulations which shall apply at all venues during the City of Poteet Strawberry Festival as well as vendors at all other festivals and events held throughout the year and shall be enforceable by the authorized representatives of the City of Poteet. These regulations as set forth on attached **Exhibit “C”**. Any person who violates any provision of the Vendor’s Regulations shall be subject to punishment of a misdemeanor offense and upon conviction in the Municipal Court of the City of Poteet shall be assessed a fine not to exceed more than \$200.00 per violation. Each transaction or violation (each day violation continues is separate offense) of any provision of the Vendor’s Regulations shall be deemed a separate offense. See **Exhibit “D”** for quick reference fee list.

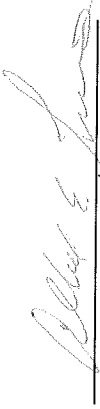
**SECTION 2. Repeal and Savings Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict with all remaining portions not conflicting being saved from repeal herein.

**SECTION 3. Cumulative Provisions.** All of the amended provisions of Ordinance 390 shall be deemed to be cumulative of the provisions and regulations contained in the official Ordinances of the City of Poteet, save and except that where the provisions of this ordinance are in conflict with provisions elsewhere in said City Code, then the provisions contained herein shall prevail.

**SECTION 4. Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.


**SECTION 5. Effective Date.** The Amendment to this Ordinance shall take effect immediately upon approval by the City Council of Poteet.

**PASSED, APPROVED AND ORDAINED this the 5<sup>th</sup> day of December, 2017.**



**Albert E. Trevino, Mayor**

**ATTEST:**



**Abigayle Frautschi, City Secretary**

## EXHIBIT "B"

### CITY OF POTEET TEMPORARY FOOD SERVICE ESTABLISHMENTS MINIMUM EQUIPMENT AND HEALTH REQUIREMENTS

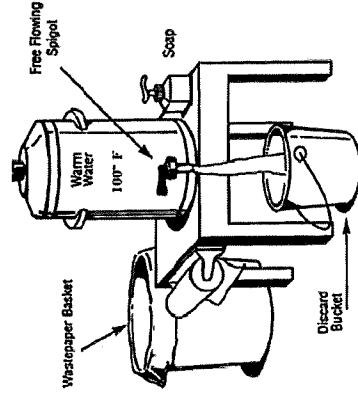
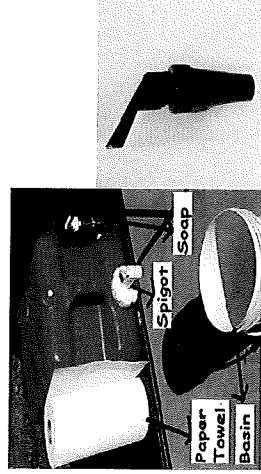
Operators will be required to provide the following equipment (per booth) and observe the following health requirements:

#### Temperature

Potentially hazardous foods (often referred to as perishables) must be kept at proper temperatures to reduce the growth of microorganisms, which can cause food borne illness. If you are not sure if a food is potentially hazardous, treat it as though it is. Cold items shall be kept at or below 41°F and hot items at or above 140°F. Food may not be out of temperature for more than four hours - it shall be consumed or discarded within four hours. Consuming food items that have been out of temperature for more than four hours is dangerous.

#### Hand-washing

Each temporary establishment shall have a hand washing station available. Water must be running and not stagnant. Therefore, buckets of water for hand washing are NOT allowed. An easy solution is to provide a cooler or a container of water with a spigot to provide running water. A catch basin is required—water may not be discharged onto the ground. Soap and paper towels must be available. Hand sanitizer is a good idea, but is NOT a substitute for hand washing—it should be applied after hands are thoroughly washed. At least a five (5) gallon potable water capacity should be available. All waste water from sinks, steam tables, buckets, etc. must be disposed of into a sanitary sewer system or in a manner which is consistent with the liquid waste disposal code requirements.



#### Gloves & Hair Restraints

No contact is allowed between bare hands and ready-to-eat food items; glove MUST be worn at all times (anything that will not be cooked before consumption); while handling food you must use tongs, wax paper, or some other barrier. Hair restraints are required of anyone who is in the food prep or any food handling area or is handling clean wares. It is best to require all employees/volunteers to wear a hair restraint at all times. Acceptable hair restraints are hairnets and ball caps. Visors are allowed only if a hair net is also worn.

#### Ware-washing

Even if you think you are only using disposable items, you may have non-disposable tongs, spoons, pans, etc. that you are using that will need to be washed. For most temporary events, the best solution is to obtain three inexpensive plastic containers. Wash with soap and water in the first container, rinse with plain water in the second, and sanitize with 50-100 ppm chlorine in the third container. This solution can

be achieved by placing approximately one capful (about one Tablespoon) of chlorine per gallon of lukewarm water. Immerse the item in the sanitizing solution for at least one minute, then let it air dry. All waste water from sinks, steam tables, buckets, etc. must be disposed of into a sanitary sewer system or in a manner which is consistent with the liquid waste disposal code requirements.

### **On-Site Prep**

All food items shall be prepared on-site (or at an approved source, such as H.E.B deli). No food offered to the public shall be prepared at home. Food items may be stored at home only when it is absolutely necessary, but need to be kept separate from other items as well as possible contaminants (chemicals, etc.) Food must be protected at all times from insects and other pests. This shall be achieved by covering food, eliminating the pests, screening, or all of the above. Containers with flip-flop lids if self-service for condiments such as onions, pickles, etc.

### **Food Protection and Handling**

Bare hand contact is not allowed with ready-to-eat foods. A barrier (i.e. gloves, utensils, deli paper, etc.) must be used between bare hands and ready-to-eat food. Food handling personnel must wash their hands as frequently as necessary, even if disposable gloves are used. Nails must be closely trimmed and maintained. No sculptured nails or chipped nail polish is allowed. Gum chewing is prohibited in the food preparation and service areas. **Temporary Food Establishment - Food Protection** All foods, food containers, utensils napkins, straws and other single service articles must be stored at least 6" off the floor and adequately protected from splash, dust, insects, weather and other contamination.

Food handlers must not have infected cuts, lesions, or open wounds. Food handlers with upper respiratory symptoms such as constant coughing or sneezing or food handlers with gastrointestinal symptoms such as cramps, vomiting and diarrhea must be restricted from handling food.

All condiments, including onions, relish, peppers, catsup, mustard, etc., which are available for customer self-service must be available in individual packets or be dispensed from an approved sanitary dispenser. Open and unprotected displays of food are not allowed. When using chafing dishes, only hinged-lid types will be allowed so that at least half of the food remains covered at all times.

When self-service ice dispensers are not used, ice scoops are required. Ice used for human consumption may not be used to refrigerate other foods and beverages. Ice storage units must be drained to a waste water receptacle or a sanitary sewer system to prevent submergence of beverage containers into melted ice.

### **Animals**

Animals are prohibited from being within fifty (50) feet from a food facility or food service area.

### **Trash Containers**

All booths must have a 45-gallon or larger trash can lined with a bag. All trash must be contained in leak-proof, non-absorbent containers lined with plastic bags and covered. When bags are full, and at the end of every day, bags must be properly discarded. A rollout dumpster will be provided by the City along with a 96-gallon cart to each vendor; that vendor will be required to dump on their own cart.

### **Structure**

All temporary food establishments are required to have approved flooring, a floor may be of concrete, machine-laid asphalt, dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable materials that are effectively treated to control dust and mud. All stands must have a suitable overhead covering for food preparation, cooking, utensil washing and serving areas. Covering must meet City of Poteet Fire Code requirements. A table skirt or other form of protection is recommended to protect food, single service articles and utensils. All grills must have overhead covering while in use. Fire extinguishers must be present if using equipment with open flames. Propane tanks for grills or other pressurized tanks, such as those used for fountain soft drinks, must be secured so they cannot fall and damage valves. Booths must have barriers to protect food and prevent customers from entering into the booth.

### **Fees**

All booths will be inspected for these requirements and must pay a **\$100.00** sanitation / health inspection fee. All food Vendors will not be permitted to open their booths without showing proof of passing the sanitation / health inspection. The City of Poteet reserves the right to contract, enter into agreement, or pay a private third party to perform sanitation / health inspections on behalf of the City of Poteet. **This is a non-refundable fee.**

#### **Applying for a Texas Sales and Use Tax Permit**

Complete the Texas Online Tax Registration. Application to get a sales tax permit. Applications and information on what is needed to apply for a Texas sales tax permit are available on our website at [www.comptroller.texas.gov/taxpermit](http://www.comptroller.texas.gov/taxpermit). There is no fee for a permit. Please note that operating without a permit can be costly; the Comptroller may assess daily penalties for operating without a permit. Use the seller's home address or principal place of business address when applying for a sales tax permit for a flea market, trade show or other temporary place of business.

All operators will be required to pay a **\$100.00** clean up deposit fee per booth. This fee is a refundable fee if the operator satisfactorily cleans up the adjacent area of their booth at the end of every day and within twelve (12) hours after the Strawberry Festival or event has concluded. Failure to satisfactorily clean up area, regardless where the trash comes from, within the time period, vendor shall lose the clean-up deposit. This fee shall be paid at time of inspection fee.

Any person who violates any provision of the temporary food service establishment minimum health requirements shall be guilty of a misdemeanor and upon conviction before the Municipal Court of the City of Poteet shall be assessed a fine not to exceed more than **\$200.00 per violation**. Each transaction or violation (each day a violation continues is a separate offense) of any provision of the Temporary Food Service Establishment Minimum Health Requirements shall be deemed a separate offense.

All booths will have a CITY OF POTEET, fire and safety inspection for a fee of **\$35.00** to be collected at time of permit application.

All vendors are required to secure a permit for the sale of foods, beverages, and souvenirs during the Poteet Strawberry Festival or other events as outlined in **Exhibit "C & D"**.

#### **THERE WILL BE NO REFUNDS**

## EXHIBIT "C"

### CITY OF POTEET VENDOR'S REGULATIONS

All vendors are required to secure a permit for the sale of foods, beverages, and souvenirs during the Poteet Strawberry Festival or other events. All operators will be required to pay a \$100.00 clean up deposit fee per stationary booth. This fee is refundable if the operator satisfactorily cleans up the adjacent area of their booth at the end of every day and within twelve (12) hours after the Strawberry Festival has concluded. Vendor shall lose the clean-up deposit if they fail to satisfactorily clean up their area within the specified time period. The clean-up fee shall be paid at time of inspection fee. All Vendors must be in place no later than noon the day of operation for the event, so that health inspections can be done in a timely manner.

**BOOTH PERMIT MUST BE PURCHASED, AND DEPOSIT PAID NO LATER THAN 4:30 P.M. THE THURSDAY BEFORE THE FESTIVAL AND PRIOR TO SETTING UP THE BOOTH. PERMIT MUST BE POSTED ON BOOTH AT ALL TIMES! FAILURE TO TIMELY OBTAIN PERMIT, OR DISPLAY PERMIT, AND BOOTH WILL BE CLOSED UNTIL THE PROPER PERMIT AND INSPECTION IS OBTAINED AND POSTED. NO EXCEPTIONS. PERMITS OBTAINED AFTER THE DEADLINE WILL BE ASSESSED A \$100.00 PER BOOTH LATE FEE.**

All concession granted under this permit will be maintained and operated in an orderly, decent, and lawful manner and shall comply with all applicable laws of the State of Texas and the City of Poteet.

1. Vendor's fees are as follows:

A. **ROVING VENDORS: \$200.00** per vendor per length of the event per cart. For every employee of Roving Vendor, an additional **\$50.00** per employee must be paid and permit will be issued to each employee. All employees must display permits at all times.

➤ **If during the festival or event, a parade is being held, the Roving Vendor and employees are prohibited from walking along the parade route one hour before, during and one hour after the parade.**

B. **STATIONARY BOOTHS:** The cost for Stationary booth permits for **non-property owners** will be as follows:

- \$400.00 per length of event per up to 10 x 10 booth for non-property owners
- \$500.00 per length of event per up to 10 x 15 booth for non-property owners
- \$600.00 per length of event per up to 10 x 20 booth for non-property owners

➤ This fee does not include cost associated with leasing or renting property from a City of Poteet landowner. Each Vendor is required to show written proof by the property owner or his authorized agent of the property at the location where good will be displayed or offered for sale, and stating owner consent to applicant's use of such property.

C. The cost of Stationary booth permits from City of Poteet **property owners** will be as follows:

- \$150.00 per length of event per up to 10 x 10 booth for property owners
- \$250.00 per length of event per up to 10 x 15 booth for property owners
- \$350.00 per length of event per up to 10 x 20 booth for property owners

➤ Property owners must personally manage and control the booth(s) for which permit is sought and should provide proof of ownership of property within the city.

D. **NON-PROFIT ORGANIZATIONS & CHURCHES:** The cost for stationary booth permits for non-profit or church organizations will be as follows.

- \$175.00 per length of event per up to 10 x 10
- \$275.00 per length of event per up to 10 x 15

- \$375.00 per length of event per up to 10 x 20
    - **Qualified non-profits MUST have proof of a 501(c) (3) designation.**
2. All booths will have a CITY OF POTEET, fire and safety inspection for a fee of \$35.00, to be collected at time of permit application.
  3. No vendor will be allowed to sell during the length of event, any silly string, poppers, smoke bombs or any other merchandise deemed by the Police Chief or his designee as a safety hazard to the patrons and / or participants in the Parade.
  4. **PARKING PERMITS:** Permits for the purpose of parking ten (10) or less vehicles per lot at one time will be \$250.00. Permits for the purpose of parking more than ten (10) vehicles per lot at one time will be \$500.00 per parking lot per length of event.
  5. The City of Poteet will be responsible for determining Poteet residency.
  6. All vendors are responsible for keeping the area around their booths free of trash and debris.
  7. CASH, CREDIT CARDS, MONEY ORDERS OR CASHIER CHECKS ONLY WILL BE ACCEPTED FOR VENDOR PERMIT PURCHASE. ALL FEES ARE NON-REFUNDABLE.
  8. There will be a **mandatory meeting for all vendors that will be held on the Thursday, a week before the Festival, at 6:00 p.m.** Instructions regarding the Health, Fire and Electrical regulations will be covered. VENDOR LISTED ON THE PERMIT MUST ATTEND.

**THERE WILL BE NO REFUNDS!!!**

**EXHIBIT "D"**  
**FEES Quick Reference**

**Non-Property Owners**

10 X 10 Booth – \$535.00  
\$400.00 – Permit Fee  
\$100.00 – Clean Up Deposit  
\$35.00 – Fire Inspection Fee

10 X 15 Booth – \$635.00  
\$500.00 – Permit Fee  
\$100.00 – Clean Up Deposit  
\$35.00 – Fire Inspection Fee

10 X 20 Booth – \$735.00  
\$600.00 – Permit Fee  
\$100.00 – Clean Up Deposit  
\$35.00 – Fire Inspection Fee

**Peddlers Permit**

\$200.00 – Per Cart  
\$50.00 – Per Each Employee

**Parking Permit**

\$250.00 – Ten (10) vehicles or less  
\$500.00 – Ten (10) vehicles or more

**Sanitation / Health Inspection Fee**

\$100.00

**CASH, CASHIER CHECKS, CREDIT CARDS, OR MONEY ORDERS ONLY!!**

**MANDATORY VENDORS MEETING WILL BE HELD ONE WEEK BEFORE  
THE FESTIVAL!! NO REFUNDS!!!!!!**

**Property Owners**

10 X 10 Booth – \$185.00  
\$150.00 – Permit Fee  
\$35.00 – Fire Inspection Fee

10 X 15 Booth – \$285.00  
\$250.00 – Permit Fee  
\$35.00 – Fire Inspection Fee

10 X 20 Booth – \$385.00  
\$350.00 – Permit Fee  
\$35.00 – Fire Inspection Fee

**Non-Profit (Must be 501(c)(3))**

10 X 10 Booth – \$210.00

\$175.00 – Permit Fee  
\$35.00 – Fire Inspection Fee

10 X 15 Booth – \$310.00

\$275.00 – Permit Fee  
\$35.00 – Fire Inspection Fee

10 X 20 Booth – \$410.00

\$375.00 – Permit Fee  
\$35.00 – Fire Inspection Fee