

ORDINANCE NO. 318

AN ORDINANCE OF THE CITY OF SAN AUGUSTINE, TEXAS AMENDING ARTICLE 5.03 OF THE CODE OF ORDINANCES REGARDING PEDDLERS, ITINERANT VENDORS, AND SOLICITORS AMENDING ALL SECTIONS; PROVIDING FOR THE SEVERABILITY OF THIS ORDINANCE AND FOR CONFLICTING PROVISIONS

BE IT ORDANINED BY THE CITY OF SAN AUGUSTINE, TEXAS:

  **Division 1. Generally**

  **Sec. 5.03.001 Peddling on street or public square**

(a) It shall be unlawful for any person to peddle any kind of merchandise, patent medicines or nostrum, meats, fish or vegetables on the public square or any street or in any alley within the corporate limits of the city; provided that it is not understood or intended by this section to prevent farmers, stock raisers or manufacturers of merchandise from selling their products, goods, wares, and merchandise on the public streets of the city, which are actually raised, produced or manufactured by them, nor shall fishermen who catch their own fish can be affected by this section.

(b) Any person violating this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in accordance with the general penalty provided in [section 1.01.009](#) of this code for each offense, and each sale or offer of sale shall be a separate offense.

(Ordinance 69 adopted --/1921; Ordinance adopting Code)

  **Secs. 5.03.002–5.03.030 Reserved**

  **Division 2. Peddlers, Itinerant Vendors and Solicitors**

  **Sec. 5.03.031 Definitions**

For the purpose of this division, a peddler is defined as one who offers merchandise (such as fresh produce) for sale along the street or from door to door; or one who deals in or promotes something intangible; an itinerant vendor is defined as any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares, and merchandise or engages in soliciting orders for the sale of goods, wares and merchandise for future delivery and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, food truck, boat, public room in hotel, lodging house, apartment, shop, street, alley, or other place within the city for the exhibition and sale of such goods, wares,

and merchandise, or for the solicitation of orders for goods, wares and merchandise for future delivery.. The term "itinerant vendor" shall also include any person, whether a resident of the city or not, who travels by foot or conveyance from house to house, street to street, or place to place, within the city, for the purpose of offering or exposing for sale any goods, wares, or merchandise, or who in like manner solicits orders for goods, wares and merchandise for future delivery. A person, firm, or corporation which falls within the definition of an itinerant vendor as herein defined shall not be relieved from complying with the provisions of this division merely by reason of associating temporarily with any local dealer, trader, or merchant. A solicitor is defined as one to approach with a request or plea or to make petition. Those defined in this division may be referred to as parties or said party in this article. (Ordinance 201, sec. 1, adopted 4/19/1984; Ordinance adopting Code)

  **Sec. 5.03.032 Penalty**

Any person, firm or corporation violating any provision of this division shall be fined in accordance with the general penalty provided in [section 1.01.009](#) of this code, and a separate offense shall be deemed to have been committed on each day during or on which a violation occurs or continues. (Ordinance 201, sec. 10, adopted 4/19/1984; Ordinance adopting Code)

  **Sec. 5.03.033 License required**

It shall be unlawful for a peddler, an itinerant vendor or solicitor as defined in [section 5.03.031](#) of this article to engage in such business within the city without first obtaining a license therefor in compliance with the provisions of this division. (Ordinance 201, sec. 2, adopted 4/19/1984)

  **Sec. 5.03.034 Issuance of license; fee**

The city secretary shall issue to any peddler, itinerant vendor or solicitor a license authorizing such itinerant vendor to conduct business in the city only after such parties shall have fully complied with all of the provisions of this division and made payment of the sum in the amount established by city council for such license, such sum to be used to partially defray the expenses of the surveillance and inspection of the premises and property of the licensee, and the enforcement of the provisions of this division. (Ordinance 201, sec. 3, adopted 4/19/1984; Ordinance adopting Code)

  **Sec. 5.03.035 Application for license**

Every party as defined in [section 5.03.031](#) who desires a license under the provisions of this division shall make application to the city secretary. Such application shall be made in person by the person(s) upon forms available in the City Secretary's Office or a designee and submitted there. A separate license and application shall be required for each person who engages in the activities of an itinerant vendor including employee, agent, or consignee who engages in such activity. Such application shall provide a space for the following information which must be furnished by the applicant;

- (1) The full name, telephone number, address, birth date; physical description and either:
 - a. Driver's license number and state of issuance; or

- b. Social Security number and an official government issued picture identification card with photograph
- (2) If the applicant is an itinerant vendor for any commercial organization, the name, telephone number, and address of such organization.
- (3) The address of the location from which such goods, wares, or merchandise shall be exhibited to the public or offered for sale and/or a statement that the applicant will travel from door to door for the purpose of exhibiting or offering goods for sale.
- (4) A description of (year; make, type) and license plate number and state of all vehicles to be used or a description of what will be used for the exhibition for the sale of such goods, wares, and merchandise in the soliciting and peddling by the itinerant vendor.
- (5) Locally based nonprofit organizations, churches, religious organizations or charitable organizations are exempt from the formal permitting fee; however, they are required to notify the City Secretary, or a designee, as to the dates of the campaign; the area they will be selling, the name and telephone number of a responsible party and a description of the items to be sold. Nonprofit organizations are exempt, however no representative of said organization nor any vendor participating in an event for these organizations shall be able to make any personal gain, meaning the representative or vendor may do no selling and delivering of goods, wares, and merchandise or engage in soliciting orders for the sale of goods, wares and merchandise for future delivery or the exemption will be null and void and [section 5.03.032](#) shall be invoked. Said organizations may be asked to provide a copy of their 501c3 as proof of their nonprofit status.

  **Sec. 5.03.036 Submissions with application;**

Before any license shall be issued under the provisions of this division, the application therefor shall be accompanied by:

- (1) Statement of character of goods and merchandise. A statement showing the kind and character of the goods, wares and merchandise to be sold, offered for sale or exhibited for sale.
- (2) Signed Statement of Property Owner Responsibility and Consent. Any property owner, tenant, or lessee who allows a peddler, itinerant vendor or solicitor to utilize their private property shall be responsible, for compliance with the **current** adopted zoning regulations of the city and giving consent for the use of said property. This shall be in the form of a written permission signed by the property owner, tenant, or lessee.
- (3) Signed Statement of Peddler/Itinerant Vendor Responsibility. The Peddler, Itinerant Vendor or Solicitor will pay all damages to persons caused by or arising from or growing out of the wrongful, fraudulent or illegal conduct of that party, while conducting their business in the city. This signed statement will be binding and in full force and effect for

the entire duration of the license. The peddler, itinerant vendor or solicitor will also be responsible for being in compliance with the **current** adopted zoning regulations of the city. This shall be in the form of a written permission signed by the applicant.

- (3) Sales tax permit information. Satisfactory evidence that the itinerant vendor is the holder of a current sales tax permit of the state, with such evidence to include a copy of such sales tax permit and the number, date of issuance and expiration of the same, if applicable.

(Ordinance 201, sec. 5, adopted 4/19/1984)

  **Sec. 5.03.038 License not transferable**

The license provided for herein shall not be transferable nor give authority to more than one person to sell or exhibit goods, wares or merchandise as an itinerant vendor either by agent or clerk or in any other way than his own proper person, but any person having obtained such license may have the assistance of one or more persons in conducting the sale or exhibit, who shall have authority to aid that principal, but not to act for or without him. (Ordinance 201, sec. 7, adopted 4/19/1984)

  **Sec. 5.03.039 Duration of license; posting**

The license, as provided herein, shall continue so long as the licensee is conducting business in the city, but in no event shall it continue for more than three (3) consecutive days from the date of its issuance for the license period. Such license shall be prominently displayed in a conspicuous place on the premises where business is being conducted or shall be carried on the person of the licensee and shall remain so displayed or so carried so long as the licensee is conducting business under such license. (Ordinance 201, sec. 8, adopted 4/19/1984)

  **Sec. 5.03.040 Exemptions**

This division is not and shall not be held to be applicable to the following parties:

- (1) Vendors of farm produce, poultry, stock or agricultural products, including hay, in their natural state;
- (2) Sales at wholesale to retail merchants or other retail business outlets, garages or mechanic shops by commercial travelers, route salesmen or selling agents in the usual course of business;
- (3) Vendors at private events who are providing a service for the property owner, tenant, or lessee who is sponsoring/hosting the private event. The Vendor may do no selling and delivering of goods, wares, and merchandise or engage in soliciting orders for the sale of goods, wares and merchandise for future delivery.
- (4) Garage or yard sales held on premises devoted to residential use.

- (5) Peddlers, solicitors, or itinerant vendors participating in a city-sponsored or approved events and renting a booth space in conjunction with said event.

(Ordinance 201, sec. 9, adopted 4/19/1984)

  **Sec. 5.03.041 Denial / Revoke**

The City of San Augustine reserves the right to deny or revoke a permit at any time a permit holder fails to abide by this Ordinance and a penalty may be applied as stated in [section 5.03.032](#).

  **Sec. 5.03.042 Severability of Ordinance**

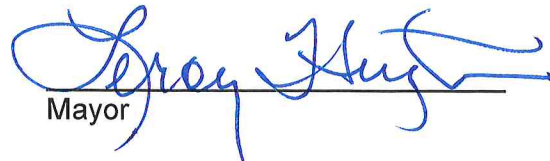
That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance hereby adopted are severable and, if any phrase, clause, sentence, paragraph, or section shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not effect any of the remaining phrases, clauses, sentences, paragraphs, or sections, since the same would have been enacted by the City Council without the incorporation of any unconstitutional phrase, clause, sentence, paragraph, or section.

  **Sec. 5.03.043 Conflicting Provisions**

That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SAN AUGUSTINE, TEXAS, ON THIS THE 9th DAY OF August, 2022.

APPROVED



Mayor

ATTEST:



City Secretary

