

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 20, ARTICLE II, ITINERANT PEDDLERS, MERCHANTS, ETC., OF THE CITY OF KILLEEN'S CODE OF ORDINANCES AMENDING REGULATIONS RELATED TO ITINERANT VENDORS; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, H.B. 2844 (89th Legislative Session) adopted revisions to Chapter 437 of the Texas Health and Safety Code which will require a state license to operate a food truck and provides that a municipality may not prohibit the operation of a mobile food vendor who holds a mobile food vendor license and complies with all other state and local laws not in conflict with said Chapter; and

WHEREAS, the City desires to eliminate duplication in state and local permitting requirements with regard to mobile food vendors and vendors in connection with a city-hosted event; and

WHEREAS, the City finds that it is in the City's best interest to regulate door-to-door sales of services similarly to door-to-door sales of goods;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

SECTION I: That Chapter 20, Article II, Itinerant Peddlers, Merchants, Etc., of the City of Killeen Code of Ordinances is hereby amended to read as follows:

Chapter 20 - PEDDLERS, SOLICITORS, ETC.

ARTICLE II. - ITINERANT PEDDLERS, MERCHANTS, ETC.

DIVISION 1. - GENERALLY

Sec. 20-26. - Definition.

For purposes of this article, the term "itinerant vendor, merchant, or peddler" is defined as any person ~~selling goods, wares or merchandise who does not have a fixed place of business in a permanent building in the city which is either owned by such vendor or under lease to such vendor for a period of at least one hundred eighty (180) days, and any vendor who conducts a~~

~~business from any truck, trailer, mobile home, van or any other type of structure or vehicle capable of being transported on the streets and highways of the city or~~ who goes from door to door or place to place selling or soliciting orders for goods, wares, services or merchandise. This term does not include mobile food vendors who hold a state-issued mobile food vendor license or any vendor who has a valid vendor permit in connection with a city-hosted event. For purposes of this Chapter, a city-hosted event is an event that is funded by the City and organized by City staff.

Sec. 20-27. - Compliance generally.

It shall be unlawful for any itinerant vendor, merchant or peddler, or any person as agent, employee or servant of any such vendor, merchant or peddler, to sell, offer or exhibit for the purpose of taking orders for sale thereof, any goods, wares, services, merchandise or other personal property at any location in the city without having complied with the provisions of this article.

Sec. 20-28. - Exemptions from permit fee.

The payment of the permit fee shall not be held to be applicable to the following; however, they are required to comply with all other provisions of this article:

- (1) Ordinary commercial travelers who sell or exhibit for sale goods, wares, services, merchandise, or other personal property to persons engaged in the business of buying, selling and dealing in the same.
- (2) Vendors of farm produce, poultry, stock or agricultural products in their natural state if raised on land owned or leased by the vendor, or such products may be sold by any member of the owner's or lessee's household.
- (3) Sales of goods, wares, services and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some charitable, religious or philanthropic purposes.
- (4) Sales of goods, wares, services and merchandise by any bona fide charitable, religious or philanthropic organization.
- (5) Persons engaged in interstate commerce.

SECTION II. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION III. That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION IV. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION V. That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this ____ day of _____, 20____, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED:

Debbie Nash-King, MAYOR

ATTEST:

Laura Calcote, CITY SECRETARY

APPROVED AS TO FORM:

Holli Clements, CITY ATTORNEY