

**Ordinance amending Chapter 38 of the Corpus Christi Code to exempt flea markets and farmers markets from vendor permitting; and providing for penalty**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:**

**SECTION 1.** The Corpus Christi Code of Ordinance, Section 38-2 is amended by adding the following language that is underlined (added) and deleting the language that is stricken (~~deleted~~) as delineated below:

Sec. 38-2. - Definitions and construction.

(a) As used in this article, the following definitions shall apply:

- (1) *Bayfront seawall* shall mean the protective retaining wall running along the shore of Corpus Christi Bay and along Shoreline Boulevard from Buford Street to the entrance ramp to the barge dock, including the sidewalk thereon.
- (2) *Business* shall mean any marketing activity conducted for the sale or rental of goods or services for private profit on any premises in this city.
- (3) *City* shall mean the City of Corpus Christi, Texas, or where the context indicates, the city manager or his designated representative or other authorized representative of the city.
- (4) *Commercial printed matter* means any printed or written matter whether on a sample, device, circular, leaflet, pamphlet, paper or booklet or whether printed, reproduced or copied of any matter or literature which advertises for sale any merchandise, product, commodity, or services; or:
  - a. Directs attention to any business, or commercial establishment, or other activity for the purpose of either directly or indirectly promoting sales;
  - b. Directs attention to or advertises a meeting, performance, exhibition, or event for which an admission fee is charged or a collection is taken to defray expenses; or
  - c. While containing reading matter other than advertising matter, is predominately and essentially an advertisement and is distributed or circulated for advertising or for the private benefit and gain of any person so engaged as the advertiser or distributor.
- (5) *Commercial solicitor* shall mean any person without a permanent business establishment within the city who takes or offers to take orders for the future delivery of any goods or services by means of going upon private premises from house to house or place to place, without the prior expressed request or consent of the owner or occupant thereof.

(6) *Farmers market* means a designated outdoor location used primarily for the distribution and sale directly to consumers of produce by farmers or other producers.

(7) *Flea market* shall mean a designated outdoor location provided to two or more persons used primarily for the sale or bartering of goods.

~~(68)~~ *Home solicitation* means the business of soliciting, selling, offering for sale, renting or offering for rent or taking orders for goods or services or distributing commercial printed matter by means of going on private premises from house to house, including apartment homes and other multi-family housing, without the prior expressed request or consent of the owner or occupant thereof.

~~(79)~~ *Itinerant merchant* shall mean any person without a permanent business establishment within the city who engages in a temporary business of selling, offering for sale, renting or offering for rent any goods or services from a permanent, established structure. Temporary association with an established resident business or person shall not excuse any itinerant merchant from the terms of this article.

~~(810)~~ *Local youth organization* means an organization that meets all of these requirements: (i) is a charitable or nonprofit entity, or a public or private primary or secondary school, or a program unit authorized by any such school (such as a band, athletic team, student club, etc.); and; (ii) which raises funds for the organization by predominantly using children; (iii) has not been accused by any law enforcement agency of fraud, child labor law violations, or other crime against residents in the course of soliciting. All local youth organizations must have a physical address in City of Corpus Christi.

~~(911)~~ *Mobile food unit* means a food establishment contained within a motor vehicle or a trailer capable of being mounted on a motor vehicle, stand, cart, craft, or other equipment or device for the purpose of parking or stopping briefly for selling food and beverages directly from the vehicle, trailer, stand, cart, craft, or other equipment or device to customers who approach the unit. Mobile food unit does not include a converted storage/shipping container or other similar structure.

~~(102)~~ *Mobile food vendor* means a vendor who specifically engages in the business of selling or offering for sale food and beverages directly from a mobile food unit in or upon any public street, alley, sidewalk, park, beach or any other public way or premises or from, in or upon any private premises.

~~(144)~~ *Panhandle* means the employment of the spoken, written or printed word or other acts as are conducted in the furtherance of the purpose of immediately collecting money or any other item of value for the use of one's self or others.

~~(125)~~ *Peddler* shall mean any person without a permanent business establishment within the city who sells, offers for sale, rents or offers for rent any goods or services by means of going upon private premises from house to house or place to place, without the prior expressed request or consent of the

owner or occupant thereof, and who makes delivery at or near the time of any such transaction.

- (1~~36~~) *Permanent business establishment* means a building or part of a building or space within a building owned or occupied for use in the operation of an on-going commercial or industrial enterprise which has been or is intended to be conducted for more than forty-five (45) days and for which use a certificate of occupancy has been issued by the city.
- (1~~47~~) *Person* shall mean any individual, firm, company, corporation, organization, partnership, association or other legal entity.
- (1~~58~~) *Tourism/leisure activities* means endeavors which encourage and or accommodate recreational use and enjoyment of the bayfront seawall area by tourists and members of the community.
- (1~~69~~) *Vending unit* shall mean any vehicle, stand, cart, craft, or other equipment or device, except a mobile food unit, used by a vendor for the storage or display of goods for sale or rent or in the actual rendering of services. Vending unit does not include a converted storage/shipping container or other similar structure.
- (1~~720~~) *Vendor* shall mean any person who engages in the business of selling, offering for sale, renting or offering for rent and delivering from stock at or near the time of sale or rental any goods or services from any vehicle, cart, stand, or other equipment or device or from his person, from, in or upon any public street, alley, sidewalk, park, beach or any other public way or premises or from, in or upon any private premises; and outside a permanent, established structure.

**SECTION 2.** The Corpus Christi Code of Ordinance, Section 38-3 is amended by adding the following language that is underlined (added) and deleting the language that is stricken (~~deleted~~) as delineated below:

Sec. 38-3. - Applicability; affirmative defenses.

This article shall not apply to the following persons, businesses or conduct or under the following conditions; provided, however, that it shall not be necessary in the prosecution of any violation of this article to negative any of such exceptions or exemptions herein expressed; but the pleading and proof of the same shall be an affirmative defense in any such prosecution:

(17) Persons engaged in the sale of goods at a flea market, excluding mobile food vendors.

(18) Persons engaged in the sale of goods at a farmers market, excluding mobile food vendors.

**SECTION 3.** If for any reason any section, paragraph, subdivision, sentence, clause, phrase, word, or provision of this Ordinance shall be held to be invalid or unconstitutional by final judgment of a court of competent jurisdiction, such judgment shall not affect any other section, paragraph, subdivision, sentence, clause, phrase, word, or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, sentence, clause, phrase, word, or provision of this Ordinance be given full force and effect for its purpose. The City Council hereby declares that it would have passed this Ordinance, and each section, paragraph, subdivision, sentence, clause, phrase, word, or provision thereof, irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses, phrases, words, or provisions be declared invalid or unconstitutional.

**SECTION 4.** A violation of this ordinance, or requirements implemented under this ordinance, constitutes an offense punishable as provided Section 1-6 of the Corpus Christi Code of Ordinances.

**SECTION 5.** Publication shall be made in the City's official publication as required by the City's Charter.

**SECTION 6.** This ordinance is effective immediately upon passage.

That the foregoing ordinance was read for the first time and passed to its second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

Joe McComb	_____	Ben Molina	_____
Rudy Garza	_____	Everett Roy	_____
Paulette Guajardo	_____	Lucy Rubio	_____
Michael Hunter	_____	Greg Smith	_____
Debbie Lindsey-Opel	_____		

That the foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

Joe McComb	_____	Ben Molina	_____
Rudy Garza	_____	Everett Roy	_____
Paulette Guajardo	_____	Lucy Rubio	_____
Michael Hunter	_____	Greg Smith	_____
Debbie Lindsey-Opel	_____		

PASSED AND APPROVED on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

\_\_\_\_\_  
Rebecca Huerta  
City Secretary

\_\_\_\_\_  
Joe McComb  
Mayor