

ORDINANCE NO. 014-12

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS, REPEALING AND REPLACING ORDINANCE NO. 013-06 OF THE CITY DE LEON; ESTABLISHING RESTRICTIONS ON VENDOR ACTIVITIES WITHIN THE CITY; ESTABLISHING AREAS WHERE VENDOR ACTIVITIES SHALL BE PERMITTED; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE AND AN OPEN MEETINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of De Leon, wishes to encourage and promote commercial activity in the City while also protecting the free flow of traffic and pedestrian movement on public streets within the City; and

WHEREAS, the City Council has determined that it is necessary to regulate where vendors may park vehicles and trailers and operate in the City in order to not impede or inconvenience the public or affect private property or access to private property along City streets:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS:

SECTION 1. FINDINGS. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. VENDOR. The word "vendor," as used in this Ordinance, shall mean any person, whether a resident of this City or not, parked or located within the City for the purpose of selling or soliciting the sale of goods, wares, merchandise, or agricultural products to the public, other than a bona fide permanent retail business.

SECTION 3. RESTRICTIONS ON LOCATION. No vendor shall park or locate for the purpose of conducting vending activities within the City on any public street, roadway, alley, sidewalk, pedestrian walkway or other public right-of-way, including any state highway. No vendor shall park or locate on property in any way that encroaches on or blocks any public street, alley, sidewalk, pedestrian walkway or other public right-of-way, including any state highway. These requirements shall also apply to residential garage sales located at the residence of the vendor, and sales of goods, wares and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some charitable, religious or philanthropic purpose. In order to park or locate on private property within the City, vendors must obtain permission of the owner of the property on which they wish to park or locate prior to parking or locating on the property. Failure to comply with the restrictions in this Section 3 shall be considered a violation of this Ordinance and shall be enforceable pursuant to Section 6 of this ordinance.

SECTION 4. DESIGNATED VENDOR AREA. Vendors may, but are not required to, park or locate under the sheds on West Alamante Street between Cato Street and Texas Street and north of the railroad tracks (the "vendor area"). No vendor shall have an exclusive right to any specific location in the vendor area or be permitted to store or leave merchandise or any vehicle or trailer in the vendor area unattended or overnight. No vendor shall be permitted to operate in any way that extends into or encroaches on the public streets or right-of-ways adjacent to the vendor area.

SECTION 5. EXCEPTIONS. Section 3 of this ordinance shall not apply to the following events when the City has temporarily closed a City street or right-of-way for this purpose:

- a. Sales of goods, wares and merchandise by sheriffs, constables or other public officers, or to bona fide assignees or auctioneers, or trustees or receivers regularly appointed.
- b. Vendors participating in special events sponsored by the City and approved by the City Council.

SECTION 6. PENALTY. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a Class C misdemeanor, and, upon conviction, shall be subject to a fine of not more than five hundred dollars (\$500.00). Each transaction in violation of any of the provisions hereof shall be deemed a separate offense.

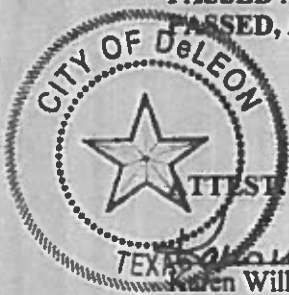
SECTION 7. SEVERABILITY. If any provision of this Ordinance is held invalid, the invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 8. OPEN MEETINGS. That it is hereby officially found and determined that the meetings at which this Ordinance was passed, approved and adopted were open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the *Open Meetings Act, Chapter 551, Loc. Govt. Code*.

SECTION 9. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code and the City Charter.

PASSED AND APPROVED on this 27 day of September, 2012.

PASSED, APPROVED AND ADOPTED on this 11 day of October, 2012.



Lowell Ercanbrack, Mayor

Karen Wilkerson,
City Administrator/Secretary