

## ORDINANCE NO. 22-O

**AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 13, ITINERANT MERCHANTS AND VENDORS, OF THE CODE OF ORDINANCES OF THE CITY OF ALVIN, TEXAS, FOR THE PURPOSE OF AMENDING SECTION 13-1 DEFINITIONS, AND SECTION 13-21 EXEMPTIONS TO DISTANCE AND/OR RESTRICTED LOCATIONS SET FORTH IN SECTIONS 13-16 AND 13-18 AND/OR EXCEPTIONS TO REGISTRATION CERTIFICATES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.**

**WHEREAS**, the City Council of the City of Alvin is continually reviewing the provisions of the City Code of Ordinances to ensure that it meets the current needs of the City and that the procedures herein reflect standard practice; and

**WHEREAS**, the City Council of the City of Alvin desires to promote the health, safety, and general welfare of its citizens;

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

**Section 1.** That Chapter 13, Itinerant Merchants and Vendors, of the Code of Ordinances, City of Alvin, Texas, is hereby amended with the language as follows:

### CHAPTER 13, ITINERANT MERCHANTS AND VENDORS

#### ARTICLE I. IN GENERAL

##### **Sec. 13-1. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building Official.* Building Official means the building official, fire marshal, health official, code compliance officer of the city, or their designees.

*Charitable organization.* An organization engaged in the sale of items to raise money for public benevolent purposes. A charitable organization must provide proof of nonprofit, tax-exempt certificate to meet the requirements of this definition.

*Commodities, goods or merchandise.* Personal property of any nature whatsoever, but excludes food and beverages as those commodities are described in chapters 3 and 10 of this Code.

*Craft show/event.* A special event or show where the owner(s) lease or otherwise provides space to individual vendors for the sale of arts, crafts or homemade, nonconsumable goods. For purpose of this article, a craft show must consist of six (6) or more vendors to meet the definitions of a show or event.

*Crime involving moral turpitude.* A conviction of a felony or misdemeanor of such crime defined by state or federal law and such crime directly relates to the duties and responsibilities of the licensed occupation.

*Flea market/trade fair.* A market where the owner(s) leases or otherwise provides spaces to individual vendors for the sale of used and/or secondhand goods, items, materials and merchandise which are usually less than twenty (20) years old, or older items which would not normally derive a value from their age (i.e., not antiques).

*Fundraisers.* An organized activity of the general public for the purpose of raising funds for an institution, political organization or activity with charitable or civil interest.

*Itinerant vendor.* Any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in a business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting goods or merchandise for sale, or for the purpose of taking orders for the sale thereof, who displays, exhibits, sells, or offers for sale such goods, merchandise or services upon or from a truck or other vehicle within the city, or who temporarily hires, rents, leases or occupies any room or space in any building, structure or other enclosure, or vacant lot in the city upon which such business is to be operated or conducted. For purposes of this section this term shall not include:

- (1) Individuals connected with the trade, sell, or bartering of food and beverages; or
- (2) Individuals connected with a charitable organization as that phrase is defined in this section.

*Nonprofit organization.* Any organization in which no income of such organization is distributable to members, directors, or officers and has a certificate of formation on file with the Secretary of State for Texas.

*Peddler.* Any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in the business in the city of selling, offering for sale, or exhibition for sale of any commodity or service, from house to house or from place to place and not from one established spot. Delivery of the commodity or service is made at the time of sale. Collection of the sales price at time of sale or later is immaterial. This term shall not include:

- (1) Individuals connected with the trade, sell, or bartering of food and beverages; or
- (2) Individuals connected with a charitable organization as that phrase is defined in this section.

*Person.* Any individual, partnership, association, corporation, business entity or enterprise, club or trustee.

*Regulatory authority.* Any municipal officer or department of the city appointed by the City Manager to administer this article.

*Religious, civic, or charitable solicitation.* The seeking of support or contributions for political, religious, charitable or civic causes, including, without limitation, the promotion of conservation of resources or animals, or advocating a philosophy or religion.

*Services.* The performance of labor for the benefit of another or at another's command.

*Solicitor or canvasser.* Any individual, firm, organization or corporation, as well as its representatives, agents and employees, who engages in the business in the city of taking orders for future delivery of commodities or services, or solicits subscriptions, orders, contributions, or any kind of support, for remuneration or gain, from house to house or from place to place. This term shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

*Temporary business.* The business use of any real property in the city for which definite written arrangements with the owner have not been made for occupancy of the premises for a term in excess of ninety (90) days. Definite arrangements would include, without being limited to, a lease agreement or other document conveying an enforceable right of occupancy.

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**Sec. 13-21. Exemptions to distance and/or restricted locations set forth in sections 13-16 and 13-18 and/or exceptions to registration certificates.**

- (a) Christmas tree vendors are exempt from the exclusion of operation along major arterial roadways between the dates of November 1 and December 25. This exemption applies to Christmas tree vendors operating from a fixed location and as long as they comply with all of the other provisions of this article.
- (b) Civic interest events. Events such as parades, organized holiday festivities and special events on behalf of charitable organizations shall be exempt from distance requirements and location restrictions of this article.
- (c) Craft show/event. A craft show/event as defined by this article is exempt from the location restrictions of this article. However, an application for site approval must be submitted by the event coordinator to the building official or their designee for approval at least seven (7) days prior to the date of the event or show. The building official or their designee will review the proposed location and will approve or disapprove the site on the following basis:
  - (1) Impact on the surrounding businesses and community;
  - (2) Adequate facilities to support the show or event; and
  - (3) Safety of the location based on increased pedestrian and vehicular traffic and parking.

The site application shall include the following:

- (1) Event date and proposed location;
- (2) A letter from the registered property owner specifying the event coordinator's intended use of the property;
- (3) A site layout map showing the number and location of each vendor and facilities available; and
- (4) Contact information for the event coordinator.

The event coordinator will be required to submit one application and one fee for the event. All vendors transacting business and related activities under the authority of the registration certificate must submit applications as defined in section 13-5(b), however, identification cards will not be issued.

- (d) Charitable organization. A “charitable organization” as defined by this article is required to submit an application for a certificate but is exempt from the distance and location requirements under this article. Upon submission of supporting documentation of nonprofit status, the charitable organization will be issued a certificate, but all fees associated with this certificate shall be waived.
- (e) Fundraisers. “Fundraisers” as defined in this article will not be considered itinerant vendors for the purpose of this article and are not required to get a registration certificate.
- (f) Any veterinarian(s) with a valid license issued by the Texas State Board of Veterinary Medical Examiners providing services to the public are exempt from the exclusion of operation along major arterial roadways.

**Section 2.** That except as amended herein all other provisions of Chapter 13 of the Code of Ordinances, City of Alvin, Texas, shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

**Section 3. Penalties.** Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not to exceed \$500. Each continuing day’s violation shall constitute a separate offence. The City of Alvin retains all legal rights and remedies available to it pursuant to local, state and federal law.

**Section 4. Severability.** Should any section or part of this Ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

**Section 5. Incorporation into Code of Ordinances.** The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Alvin, Texas, as an addition, amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

**Section 6. Effective Date.** This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52 of the Texas Local Government Code and the City of Alvin Charter.

**Section 7. Open Meetings Act.** It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*. Notice was also provided as required by Chapter 52 of the *Texas Local Government Code* and the *City of Alvin Charter*.

**Section 8. Publication.** The City Secretary of the City of Alvin is hereby directed to publish this Ordinance, or its caption and penalty clause, in one issue of the official City newspaper as required by the City of Alvin Charter.

**PASSED and APPROVED** on the 17<sup>th</sup> day of March 2022.

**THE CITY OF ALVIN, TEXAS**

**ATTEST**

By: \_\_\_\_\_  
Paul A. Horn, Mayor

By: \_\_\_\_\_  
Dixie Roberts, City Secretary