

ORDINANCE NO. 2022-O-15

AN ORDINANCE REGULATING PEDDLERS, VENDORS, AND FOOD TRUCKS; PROVIDING FOR CODIFICATION; FIXING A PENALTY FOR FAILURE TO COMPLY WITH SUCH ORDINANCE; REPEALING ANY CONFLICTING ORDINANCES; AND SETTING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS.

SECTION 1. Article 4.03 of the City of Palacios Code of Ordinances is hereby amended and replaced as follows: **ARTICLE 4.03 PEDDLERS, VENDORS, AND FOOD TRUCKS**

Division 1. Generally

Sec. 4.03.001 Definitions

For the purposes of this article the following definitions shall apply:

Commercial traveler. A person who is employed by or who represents a manufacturer, wholesaler, or importer who sells or exhibits goods to parties who engage in the business of purchasing such goods for the purpose of resale to the general public.

Goods. Tangible chattels of every kind and character.

Peddler. A person, or the agent, consignee, or employee of a person, who carries goods upon a truck or other vehicle on the streets of the city for the purpose of exhibiting, selling, or offering for sale such goods from such truck or other vehicle or who within the city goes from door to door of residences, offices or places of business to display, sell, offer for sale, or take orders for the sale of goods or to exhibit brochures, sales literature or price lists for the purpose of taking orders for the sale of goods from a vacant lot, parking lot, tent, boat, storage bin, stall or unenclosed structure.

Vendor. A person or company offering something for sale, especially a trader in the street.

Person. An individual natural person and does not include any corporation, firm, association, partnership or joint venture.

Mobile Food Unit a.k.a. Food Truck. a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily moveable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food by a vendor.

Commercial Organization. An organization, institution, corporation, or other legal entity, including, but not limited to, partnerships, sole proprietorships, and limited liability companies, that is organized or operated for the profit or benefit of its shareholders or other owners.

Solicitation. The act of asking for or trying to obtain funds from a person in return for a product or item or as a charitable donation.

Sec. 4.03.002 Exceptions

This article shall not apply to any of the following:

1. Commercial travelers;

2. Sales or exhibits at fairs, rodeos, conventions, or events sponsored by one or more city civic organizations, schools, churches or the Chamber of Commerce; but shall comply with appropriate regulations of the Code of Ordinances of the City of Palacios.
3. Charitable solicitation.
4. Permanent Business Establishments

Sec. 4.03.003 Penalty

Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a class C misdemeanor and upon conviction thereof shall be punished by a fine not to exceed more than \$200.00. Each day any violation of the chapter shall continue shall constitute a separate offense.

Sec. 4.03.004 Property owner violations

Any property owner who knowingly allows his property to be used or occupied by a peddler, or vendor who conducts thereon a business operation or who exhibits or offers for sale goods without first obtaining a license as required by the provisions of this article shall be guilty of a misdemeanor.

Sec. 4.03.005 Hours of canvassing, solicitation and peddling at private residences

It shall be unlawful for persons, licensed or unlicensed, to canvass, solicit or peddle at private residences between the hours of 8:00 p.m. and 8:00 a.m., unless otherwise posted by the private property owner or by someone with apparent authority to act for the owner. This provision does not apply where the canvasser, or peddler is on the property by prior invitation of the owner of the property or a person residing on the premises.

Sec. 4.03.006 Soliciting in Public Roadways

1. Pursuant to Texas Transportation Code § 552.007, "solicitation by pedestrians," a person may not stand in a roadway to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except that a person may stand in a roadway to solicit a charitable contribution if authorized to do so by the local authority having jurisdiction over the roadway.
2. Pursuant to Texas Transportation Code § 552.0071, "local authorization for solicitation by pedestrian," a local authority shall grant authorization for a person to stand in a roadway to solicit a charitable contribution as provided by Texas Transportation Code § 552.007.
3. If the person(s) allowed per this ordinance are to be engaged in the solicitation are employees or agents of the local authority and the other requirements of this section are met.
4. A person seeking authorization under this section shall file a written application with the Palacios Police Department not later than the 11th day before the date the solicitation is to begin. The application must include:
 - a. The date or dates and times when the solicitation is to occur;
 - b. Each location at which solicitation is to occur; and
 - c. The number of persons to be involved at each location.

Sec. 4.03.007 – Mobile Food Units are subject to the following regulations:

Location:

1. All mobile food units must be located on a private parcel with at least annual written permission from the property owner, which is appropriately zoned for commercial development.
2. The location must be approved in writing by the city.

3. Units shall not be allowed on a driveway, fire lane or obscure traffic sight visibility.
4. The location must also provide adequate parking pursuant to Code of Ordinance requirements.
5. No mobile food units operating under this regulation shall be allowed to sell or service food on any public street, sidewalk, or other public right-of-way unless approved in writing by the City of Palacios.
6. Mobile food units shall be ready and able to be removed from the parcel daily.
7. All mobile food units shall have a valid vehicle registration, motor vehicle operator's license, proof of vehicle liability insurance, and a Texas Sales Tax Permit and shall display secure a current mobile food unit permit and any document required by the Matagorda County Department of Health.

Operational Issues.

1. A drive-through is not permitted in conjunction with the mobile food unit and shall not provide a drive-through service of any kind.
2. All mobile food units shall be equipped with a self-closing lidded trash receptacle. The trash receptacle must be placed outside next to the mobile food units for use by the patrons of the unit. The area around the mobile food units shall be kept clean and free from litter, garbage, and debris
3. Temporary connections to potable water are prohibited. Water shall be from an internal tank, or a permanent water meter in the applicants name and electricity shall be from a generator or an electrical outlet via a portable cord that is in conformance with the Electrical Code as adopted by the City of Palacios. All Texas Commission on Environmental Quality (TCEQ) cross-control methods shall always be complied with.
4. No mobile food unit shall operate before first obtaining a permit from the City of Palacios.
5. Mobile Food Units are not a "food establishment" and are not subject to Section 6.03 of the City's Code of Ordinances.
6. All mobile food units are subject to inspection by the Palacios Volunteer Fire Department for compliance with all rules and codes.

Sec. 4.03.008. -- Permit and Fee.

A Mobile food unit shall be required to obtain a permit. Permit fee is \$100 per year, per applicant.

Division 2. Permit

Sec. 4.03.009 Application for permit

Any applicant subject to the provisions of this chapter shall file a written application with the city permit department. Permits are issued for individuals and not companies or organizations as a whole. Permits are not transferable. The application form is furnished by the city and shall include the following information:

1. Each applicant's name, current address, driver's license number, or state issued identification number, telephone number, birth date and physical description.
2. A photocopy government-issued identification card of the applicant that includes a photograph.

- 3. If the applicant is peddling or soliciting for a commercial organization, the applicant must provide the organization's name, address, telephone number and name of the organization's owner or chief operating officer.
- 4. If the applicant is peddling or soliciting for a commercial organization, the applicant must provide the name, title, address, driver's license number, or state issued identification number, date of birth, telephone number and e-mail address of their immediate supervisor.
- 5. A general description of goods to be sold and/or services to be rendered and a copy of the sales contract/agreement and cancellation clause that complies with Texas Business and Commerce Code Ch. 601.
- 6. Description (year, make, model, color) and the issuing state and license plate number for any and all vehicles to be used in soliciting and peddling.
- 7. Whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude, fraud, theft or assault of any kind.
- 8. The period of time during which the applicant wishes to solicit or sell in the city.

Secs. 4.03.010–4.03.041 Reserved

SECTION 2. It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Palacios, Texas, and it may be renumbered and codified therein accordingly, in the manner approved by the City Attorney.

SECTION 3. Failure to comply with any provision of this ordinance shall be punished by a fine not to exceed Five Hundred and No/100 (\$500.00) per day that said person is in violation of this Ordinance.

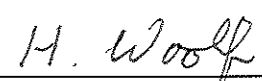
SECTION 4. If any part of this ordinance is, or should be held invalid for any reason, then that fact shall not invalidate the entire ordinance, but the balance thereof shall remain in full force and effect.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. The City Secretary shall publish this Ordinance as required by City Charter.

SECTION 7. This ordinance shall become effective upon the final passage date shown below.

First Reading this the 1st day of December, 2022.



 Chip Woolf, Mayor Pro Tem

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	_____	_____	_____ ✓
Larry Glenn	_____ ✓	_____	_____

Sharon Trainor	<input checked="" type="checkbox"/>	_____	_____
Chip Woolf	<input checked="" type="checkbox"/>	_____	_____
Troy Lewis	<input checked="" type="checkbox"/>	_____	_____
Raylynn Samora	<input checked="" type="checkbox"/>	_____	_____
Michael Dotson	<input checked="" type="checkbox"/>	_____	_____

Final Reading this the 20th day of January 2023.

Jim Gardner
 Jim Gardner, Mayor

RECORD OF VOTE

Council Member:	Voted Aye	Voted No	Absent
Jim Gardner, Mayor	<input checked="" type="checkbox"/>	_____	_____
Larry Glenn	<input checked="" type="checkbox"/>	_____	_____
Sharon Trainor	<input checked="" type="checkbox"/>	_____	_____
Chip Woolf	<input checked="" type="checkbox"/>	_____	_____
Troy Lewis	<input checked="" type="checkbox"/>	_____	<input checked="" type="checkbox"/>
Raylynn Samora	<input checked="" type="checkbox"/>	_____	_____
<u>Donna Schulman</u>	<input checked="" type="checkbox"/>	_____	_____

PASSED AND APPROVED this 20th day of January 2023.

Jim Gardner
 Jim Gardner, Mayor

ATTEST:
Aleigha Galvan
 Aleigha Galvan, City Secretary

