

ORDINANCE NO. 20

AN ORDINANCE DEFINING AND REGULATING ITINERANT MERCHANTS, ITINERANT VENDORS, PEDDLERS, AND PERSONS SELLING OR TAKING ORDERS FOR GOODS, WARES, MERCHANDISE, SERVICES, PHOTOGRAPHS, MAGAZINES, OR SUBSCRIPTIONS TO MAGAZINES, OR HOLDING GARAGE OR YARD SALES: PROVIDING FOR A LICENSE AND LICENSE FEE: REQUIRING A BOND: EXEMPTING THOSE ENGAGED IN INTERSTATE COMMERCE FROM LICENSE FEE AND BOND, BUT REQUIRING SUCH PERSONS TO REGISTER WITH THE CITY SECRETARY: AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE, INCLUDING A FINE NOT LESS THAN \$10 NOR MORE THAN \$200.00.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOG CABIN, TEXAS:

SECTION 1. This entire ordinance is and shall be deemed an exercise of the police power of the State of Texas, and of the City of Log Cabin, Texas, for the public safety, comfort, convenience and protection of the City and citizens of said City and all of the provisions hereof shall be construed for the accomplishment of that purpose.

SECTION 2. That it shall hereafter be unlawful for any person to go from house to house or place to place in the City of Log Cabin, Texas, soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, magazines, or subscriptions to magazines, without having first applied for and obtained a license so to do from the City Secretary of said City. It shall also hereafter be unlawful to sell or solicit in said city as aforesaid without carrying such license while engaged in such soliciting or selling.

SECTION 3. That any person desiring to go from house to house or from place to place in the City of Log Cabin, Texas, to sell or solicit orders for goods, wares, merchandise, services, photographs, magazines, or subscriptions to magazines, shall make written application to the City Secretary of said City for a license so to do, which application shall show the name and address of applicant, the name and address of the person, firm or corporation, if any, that he or she represents and the kind of goods offered for sale, and whether such applicant upon any such sale or order shall demand, accept or receive payment or deposit of money in advance of final delivery, and the period of time such applicant wishes to sell or solicit in said city.

SECTION 4. The application mentioned in Section 3 hereof shall be accompanied by a bond in the penal sum of \$1,000.00 signed by applicant and signed, as surety, by some surety company authorized to do business in the State of Texas, conditioned for the final delivery of goods, wares, merchandise, services, photographs, and magazines in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any and all purchasers or customers for any and all defects in material or workmanship that may exist in the article sold by the principal of said bond, at the time of delivery, and that may be discovered

by such purchaser or customer within 30 days after delivery, and which bond shall be for the use and benefit of all persons, firms or corporations that may make and purchase or give any order to the principal on said bond, or to an agent or employee of the principal.

Provided that in case applicant is a person, firm, company, partnership, corporation or association engaging in any activity mentioned in paragraph two hereof through one or more agents or employees, such persons, firm, company, partnership, corporation or association shall be required to enter into only one bond, in the sum of \$1,000.00 as above required, which bond shall be made to cover the activities of all its agents or employees.

SECTION 5. That an itinerant merchant or an itinerant vendor as the terms are used in this ordinance shall be held to any person, firm, company, partnership, corporation or association engaged in any activity mentioned in Section 2 hereof.

SECTION 6. Garage sales or yard sales are defined as non-commercial sales of personal or household articles held by private individuals, or by associations, clubs, churches, or volunteer fire departments for the purpose of raising funds for charitable groups or personal use. No bond or Permit fee shall be required; however, a permit will be obtained for display at the sale site. Failure to obtain a permit shall be a violation as defined in Section 11.

SECTION 7. Any conveyance from which food is being dispensed, be it truck, van, trailer, or lunch wagon, shall have a clean interior, equipment and salesperson or food handler. Food and drink which is not pre-wrapped or pre-packaged will be served in suitable containers. Vehicles engaged in street sales will be equipped with suitable safety devices to protect against personal injury of customers. Klaxons, bells, horns, or music devices will be used discreetly to avoid disturbing residents. The city reserves the right to conduct unscheduled inspection of food dispensing facilities operating within the city limits.

SECTION 8. That the license fee for an itinerant merchant or itinerant vendor shall be \$20.00. Provided, however, when any person, firm, company, partnership, corporation or association engages in any activity mentioned in Section 2 hereof through one or more agents or employees such person, firm, company, partnership, or corporation or association shall, in addition to said \$20.00 fee above mentioned, pay a license fee of \$5.00 for each agent or employee so engaged, all of which licenses shall be valid for one year from the date of their issuance. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of said licenses.

SECTION 9. The provisions of this ordinance shall not apply to sales made to dealers by commercial travellers or sales agents in the usual course of business, nor to sales made under authority and by order of law, nor to vendors of farm or dairy products.

SECTION 10. The provisions of this ordinance shall not apply to persons engaged in interstate commerce as that term is herein defined; provided, however, that it shall be unlawful for persons engaged in interstate commerce to go from house to house or place to place in the City of Log Cabin, Texas, without having first registered with the City Secretary of said City giving the following information:

- (a) Name, home address and local address if any, of registrant.
- (b) Name, and address of the person, firm or corporation, if any, that he or she represents or for whom or through whom orders are to be solicited or cleared.
- (c) Nature of the articles or things which are to be sold or for which orders are to be solicited.
- (d) Whether registrant, upon any sale or order shall demand or receive or accept payment or deposit of money in advance of final delivery.
- (e) Period of time which registrant wishes to solicit or sell in said City.

The registrant at the time of the registration, as herein provided for, shall submit for inspection of the City Secretary or Chief of Police in his absence, written proof of his identity which may be in the form of an automobile operator's license, identification letter or card issued to registrant by the person, firm or corporation for whom or through whom orders are to be solicited or cleared.

The term "Interstate Commerce" means soliciting, selling or taking orders for or offering to take orders for any goods, wares, merchandise, photographs, or magazines, or subscriptions to magazines which, at the time the order is taken, are in another state or will be produced in another state and shipped or introduced into this city in the fulfillment of such orders.

SECTION 11. Any person, firm or corporation violating any provisions of this ordinance or failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$10.00 and not more than \$200.00 and each and every day or fraction of a day during which this ordinance, or any part thereof, shall be violated, shall be deemed a separate offense and punishable as such.

SECTION 12. Each and every provision, paragraph, sentence and clause of this ordinance has been separately considered and passed by the City Council and each said provision would have been separately passed without any other provision, and if any provision hereof should be ineffective, invalid, or unconstitutional for any cause, it shall not impair, nor affect the remaining portion nor any other part thereof, but the valid portion shall be enforced just as if it had been passed alone, and all ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 13. This ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED AND APPROVED THIS THE 12 DAY OF March, 1988, after the first reading.

PASSED AND APPROVED THIS THE 9 DAY OF April, 1988, after the second reading.



Clifford E. Harmer, Mayor

A T T E S T:



Leta Hunter, Mayor Pro-Tem