

ORDINANCE 031323

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, TEXAS, AMENDING CHAPTER 10. BUSINESS REGULATION, ARTICLE V. TEMPORARY BUSINESSES, SECTION 10-351. DEFINITIONS, SECTION 10-353. APPLICATION FOR PERMIT, AND SECTION 10-355. FEES FOR PERMIT IN THE CODE OF ORDINANCES OF THE CITY OF EDGEWOOD.

WHEREAS, the City of Edgewood, Texas (the "City") is responsible for supporting and promoting the health, safety and welfare of its citizens; and

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City Council of the City of Edgewood, Texas ("City Council") may adopt an ordinance, rule or police regulation that is for the good government, peace or order of the City or for the trade and commerce of the City, and is necessary or proper for carrying out a power granted by law to the City or one of the City's offices or departments; and

WHEREAS, pursuant to Texas Local Government Code section 51.012, the City Council may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that the City Council considers necessary for the government, interest, welfare, or good order of the City as body politic; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD that the following is hereby amended and adopted:

ARTICLE V. TEMPORARY BUSINESS

Section 10-351. Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Any marketing activity conducted for the sale of goods or services for a profit.

TEMPORARY BUSINESS. The sale of goods, food or services conducted by any person, group of persons or entity that does not have a permanent address in the city and is operated in the city for 72 consecutive hours (one-time per 7-day week) out of a vehicle, truck, trailer or other mobile unit.

Section 10-352. Permit Required.

No person or entity shall operate a temporary business within the city without first obtaining a permit from the City Secretary. The permit shall be displayed on the premises where the business is being conducted during all business hours.

Section 10-353. Application for Permit.

- (A) Any application for a permit to operate a temporary business under this ordinance shall be made through the City Secretary's office upon forms provided by the city. The

application shall be sworn to or affirmed and filed with the City Secretary at least 24 hours prior to time in which the permit applied for shall become effective.

- (B) The application required herein shall contain the following information:
- (1) The name and address of the person applying for the permit;
 - (2) If the applicant is not an individual, the names and addresses of the applicant's registered agent and registered office, and of the applicants' principal officers and managers;
 - (3) The name and address of the person or persons who will be in direct charge of conducting the temporary business;
 - (4) The time within which the temporary business will be operated and the location of the business in the city;
 - (5) The signature of the party on whose property the temporary business shall be located;
 - (6) A statement of the types of merchandise, goods or services that will be offered to the public;
 - (7) A copy of the Texas Food Handlers Certificate, and
 - (8) Such additional information as may be required hereafter by ordinance or otherwise enacted by the City Council.

Section 10-354. Investigation by the City Secretary's Office.

The City Secretary shall examine each application filed under this Article for a permit and shall make, or cause to be made, such further investigation of the application and the applicant as the City Secretary shall deem necessary. The permit will be issued when the City Secretary determines the following facts:

- (A) That all the statements made in the application are true;
- (B) That the applicant has not engaged in any fraudulent transaction or enterprise;
- (C) That nothing in the proposal will violate any provision of the Zoning Ordinance for the City of Edgewood, Texas or any other law; and
- (D) That all regulations and restrictions governing same enacted by the City Council of the City of Edgewood, Texas now or hereafter have been complied with.

Section 10-355. Fees for Permit.

Before a permit is issued there shall be paid to the City of Edgewood, the sum of \$25 for a permit which allows the temporary business to operate at one location for 72 consecutive hours or less within the city.

Section 10-356. Permit Non-Transferable.

Any permit issued under this article shall be nontransferable.

Section 10-357. Entry on Premises.

- (A) No person shall refuse entry to any designated city inspector attempting to enter any premises for the purpose of inspection, if the entry is attempted during business hours

or during reasonable hours after business hours when there are employees on the premises to let the inspector in.

- (B) The entry shall be permitted not only to areas open to the public but also to all other areas, provided that no employee shall be required to accompany any inspector in any area that the employee deems to be dangerous, if the employee tells the inspector that the area is in the employee's opinion dangerous.

Section 10-358. Identification.

It is the policy of the city that immediately upon arriving at the premises to be inspected, the city inspector ordinarily will identify himself or herself to an employee on the premises, showing an identification card if the employee is not acquainted with the inspector. If there is no employee at the scene, the inspector may enter any area that is open to the public at that time without identifying himself or herself.

Section 10-359. Court Action.

If a city inspector is not permitted to enter any place or any part of any premises for inspection, the inspector shall not use force but shall leave the premises and seek a search warrant or other appropriate order to make entry possible.

Section 10-360. Permit Appeals.

The method of appealing a decision involving a temporary permit, such as refusal to issue a permit or action suspending or revoking a permit, is as follows.

- (A) Scope. This section shall apply to all appeals from any action of any city officer or employee, appeals from any committee or other body of the city refusing to issue a permit. This section shall also apply to appeals from any action by a city officer or employee, or by any committee or other body to the city, revoking or suspending a permit.
- (B) Appeal to department head. Any decision made by an employee of the city with a lower rank than a department head may be taken to the head of the department in which the employee is working. The appeal may be taken by filing a written note, notice or letter with the department head, briefly describing the decision being appealed. The person taking the appeal must file the note, notice or letter within ten days of the date of being notified of the decision from which the appeal is taken. The department head shall provide an opportunity for a conference, and shall decide the appeal promptly.
- (C) Appeal to City Council. Any decision made by a department head, whether an original decision or a decision on appeal from an employee's decision, may be appealed to the City Council. Any decision made by a committee or board of the city may be appealed to the City Council. The appeals shall be taken within ten days of the date that the person taking the appeal was notified of the decision from which the appeal is taken. Appeals shall be taken by filing a note, notice or letter with the City Secretary, identifying the decision from which the appeal is taken.
- (D) Action by the City Council. The City Council shall take all action on permit appeals at open meetings. All requirements of state law on open meetings shall be observed. The City Council's decision shall be final.

Section 10-361. Exemptions.

- (A) Producers of farm or dairy when selling or seeking to sell their own fresh produce.
- (B) Sales or solicitations by minors, provided the profits from any sale or solicitation will be paid to an organization that is exempt from taxation under Internal Revenue Code of 1986, §501(c)(3), as that provision may be amended from time to time; or
- (C) Sales or solicitation by any person who has registered and fully qualified to act as merchant with the sponsor of any special City event.

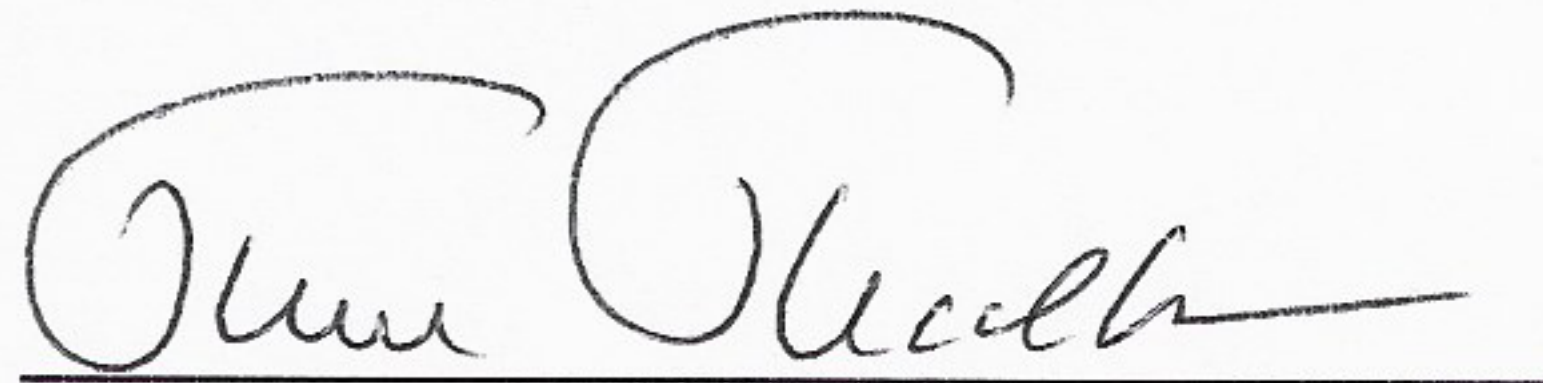
Section 10-362. Miscellaneous Provisions.

- (A) Nothing in this Article shall repeal any other ordinance concerning temporary businesses.
- (B) The provisions of this Article are severable. If any provision of this Article or the application thereof to any person, entity or set of circumstances is held invalid, that invalidity shall not affect other provisions or applications of the Article which can be given effect with the invalid provision or application.

Section 10-363. Penalty.

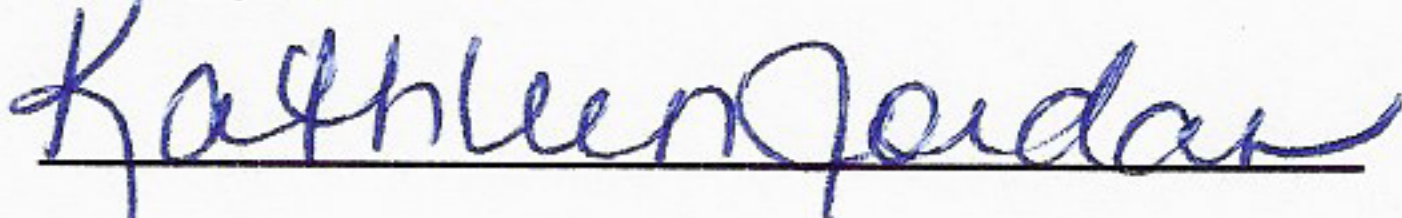
Any person, firm or corporation violating any provision of Section 1 through Section 12 shall be fined not less than \$20 nor more than \$200 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, TEXAS ON THIS THE 13th DAY OF MARCH 2023.



Steve Steadham, Mayor

ATTEST:



Kathleen Jordan, City Secretary