

ZAPATA COUNTY  
Mary Jayne Villarreal-Bonoan  
COUNTY CLERK  
Zapata, Tx 78076

00162225



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Instrument Number: 2011-00162225

As

Recorded On: June 13, 2011

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Parties: ZAPATA COUNTY

To ORDINANCE DAY VENDORS

Number of Pages: 8

Comment: DAY VENDORS ORDINANCE

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

No Fee Recording	0.00
Total Recording:	0.00

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Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

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ZAPATA COUNTY  
ZAPATA COUNTY CLERK  
ZAPATA TX 78076



State of Texas |  
County of Zapata

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Zapata County, Texas.

*Mary Jayne Villarreal Bonoan*  
Mary Jayne Villarreal-Bonoan, County Clerk

# DAY VENDORS ORDINANCE

An ordinance containing definitions; prohibiting parking lot, lot, and public easement vending within the County of Zapata except within designated vending districts and as permitted herein; establishing vending districts within the County of Zapata; providing for the licensing of day or temporary vendors; authorizing the promulgation of rules and regulations for vending within vending districts; a penalty clause, a severability clause and an emergency clause.

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**NOW THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS COURT OF THE COUNTY OF ZAPATA AS FOLLOWS:**

## **SECTION ONE**

### **Definitions**

*"Building"* means a roofed and walled structure constructed for the purpose of permanent use.

*"Code Enforcement Department"* means that department charged with the responsibility of enforcing codes and ordinances adopted by the Commissioners Court of Zapata County and subject to the direction of the Zapata County Judge.

*"County Fairgrounds Farmers and Ranchers Market Area"* means the park area known as the Zapata County Fair Grounds Pavilion.

*"Day-vendor"* means any person who engages in a temporary, transient or mobile business, selling goods, wares, merchandise, flowers, horticultural products, services, food or beverages utilizing a motor vehicle, trailer or temporary shelter, rather than a "building" from which to sell, and who for the purpose of conducting such business, hires, leases or occupies a part of a lot, a lot, parking lot, federal, state, county or public easement, or any portion thereof, rather than a

*"building"* for the exhibition or sale of goods, wares or merchandise.

*"Lot"* means a parcel of land into which property is divided.

*"Parking lot"* means an area used for the parking of motor vehicles.

*"Public Easement"* means a right retained by a public entity such as the federal, state, county or any other governmental entity of the use over the property of another.

*"Roadway"* means that portion of the street or alley, excluding the median if any, between the regularly established curbs, or that portion ordinarily used for vehicular traffic.

*"Sidewalk"* means that portion of a street, intended for the use of pedestrians, between the curb line or lateral boundary of a roadway and the adjacent property line.

*"Vend or vending"* means to sell or offer for sale any goods, wares, merchandise, flowers, horticultural products, services, food or beverages.

**SECTION TWO**

**Sales from Lots and Public Easements Prohibited; Exceptions**

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No person shall sell or offer for sale, or permit the offering or selling of goods, wares, merchandise, flowers, horticultural products, services, food or beverages in the county, from a lot, parking lot, federal, state, county or public easement, or any portion thereof, except in an area designated by ordinance as a Vending District or as provided herein in Section Four.

**SECTION THREE**

The following area is designated as a Vending District within the County of Zapata. Every vending business operated within a Vending District shall comply with the rules and regulations adopted in this ordinance.

- A. "The Zapata County Fairgrounds Farmers and Ranchers Market Vending District" is created. Provided, however, that the Zapata County Code Enforcement Department shall promulgate, subject to the approval of the Commissioners Court of the County of Zapata, rules and regulations, including restricting sales to a specific area and/or areas of the "Fair Grounds" to protect the health, safety and welfare of the residents of Zapata County.

**SECTION FOUR**

This ordinance shall not be construed to forbid merchants operating from fixed and properly permitted buildings from occupying with their goods, wares, merchandise, flowers, food or beverages, a limited portion of the sidewalk or parking lot adjacent to the property occupied by them or prevent or prohibit the sale or offering for sale any foods, wares, merchandise, flowers, food or beverages, nor shall this ordinance be construed to forbid the following:

- i. the delivery of any goods, wares, merchandise, flowers, food or beverages to any residence or business;
- ii. or sales during any period of time for which a charitable fundraiser, festival, fair or parade permit has been issued by the County Judge for a festival, fair or parade to be conducted within any area in Zapata;
- iii. or the sale of food and beverages from a push-cart or motorized and properly licensed vehicle that conducts sales solely on a sidewalk, roadway or street, that does not conduct sales from a parking lot or lot owned by another person, and that does not remain stationary for more time than is necessary to conduct a transaction.

**SECTION FIVE**

**Day Vendors License Required**

No person shall operate a business as a day-vendor, within the Vending District without first having obtained a license or permit issued by the County Judge according to the provisions of this ordinance. No person shall act as an agent or an employee for any person licensed under the provisions of this ordinance unless such person has first obtained an identification certificate from the office of the County Code Enforcement Department. No licensee shall permit any other person to act as agent or employee for such licensee unless such person has first obtained an identification certificate from the County Code Enforcement Department.

**SECTION SIX**  
**Day Vendor's License**

(Application Contents and Duty to Exhibit)

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Application for a license shall be made in writing on a form provided by the County Code Enforcement Department, and signed by the applicant. If the applicant is a corporation, a duly authorized agent shall sign the application. The application shall contain the following information:

- A. The full name, residence address and business address of the applicant and any employee of the applicant
- B. The business telephone number of the applicant;
- C. The type of license sought by the applicant;
- D. A general description of the item or items to be sold;
- E. A full face photograph of the applicant and a full face photograph of the applicant's employees, if applicable;
- F. A written statement of clearance certifying that no current or past earnings and /or property taxes are due and payable to the County;
- G. Any such other information as may be required by the Code Enforcement Department.

Subsequent to the issuance of a license, the licensee shall be required to notify the Code Enforcement Department within 10 days of any changes in the information made part of the application.

**SECTION SEVEN**  
**Identification Certificate**  
(Application Contents)

Application for an employee identification Certificate shall be made in writing on a form provided by the Code Enforcement Department, and signed by the applicant. The application shall contain the following information:

- A. The full name, residence address and business address of the applicant;
- B. The name of the applicant's employer;
- C. A full face photograph of the applicant;
- D. Any such other information as may be required by the Code Enforcement Department.

**SECTION EIGHT**  
**Issuance of license**  
(Duty to Exhibit)

Upon the filing of the completed application, the payment of the proper license fee as prescribed in this ordinance, the Code Enforcement Department shall deliver to the licensee a license. Every license shall be numbered consecutively, and shall show the name, occupation, place of residence of the licensee, and the period for which the license is issued. Each licensee shall carry the license with him and shall exhibit it whenever required by any deputy sheriff or other officer authorized under the laws or ordinances to make arrests or issue citations.

**SECTION NINE.**  
**Corporate Applicant Qualifications**

Each corporate applicant for a vending license shall be qualified to do business under the laws of the State of Texas.

**SECTION TEN.**

**Applicability of Health Code-Inspection**

All licensees and their employees shall be subject to and comply with all applicable requirements and standards for dispensing and purveying food and rules and regulations promulgated in Chapter 437 of the Texas Health and Safety Code and by the Zapata County Health Department. All food held, offered for sale, sold or given away by licensees shall be subject to and comply with all applicable requirements for such food under the rules and regulations promulgated in Chapter 437 of the Texas Health and Safety Code and by the Zapata County Health Department.

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**SECTION ELEVEN**

**Health Inspections and Analysis**

It shall be the duty of every licensee to permit inspections to be made and, when required, to furnish samples of any foods kept, offered for sale or given away by the licensee as often as may be deemed necessary to determine that the foods are free from adulteration, are not misbranded, and do not contain an excessive number of microorganisms or their toxins. The licensee shall answer all reasonable and proper questions and furnish records of the sampled product. Samples shall be examined or analyzed by or under the direction of the County's Department of Health, and a record of each such examination or analysis shall be made and kept in its office.

**SECTION TWELVE**

**License transfer prohibited.**

No transfer of ownership shall be allowed on any license issued hereunder.

**SECTION THIRTEEN**

**Day Vendor License-Application Fee**

Every individual who desires a license as a day-vendor shall apply in conformity with the provisions of this ordinance relating to applications for licenses, and shall state the class of license sought. The fee for a day vendor's license shall be \$25.00 per month. A non-refundable application processing fee of \$25.00 shall be collected at the time of application; provided, however, that upon the granting of a license, the amount of the application fee shall be credited to the fee for said license.

**SECTION FOURTEEN**

**Day Vendor's License Term**

Any day-vendor's license issued according to the provisions of this ordinance shall only be valid for the month issued. No day-vendor's license shall be issued under this ordinance except for the full license period and the full license fee.

**SECTION FIFTEEN**

**Temporary Association with Local Dealer**

Any person engaged as a day-vendor shall not be relieved from the provisions of this ordinance by reason of temporary association with any local dealer, trader, merchant or auctioneer, or by conducting a temporary or transient business in connection with, or as a part of, the business of, or in the name of any local dealer, trader, merchant or auctioneer.

**SECTION SIXTEEN**  
**Applicability of Part**

The provisions of this ordinance shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, or to bona fide sales of goods, wares or merchandise by sample for future delivery.

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**SECTION SEVENTEEN**  
**Limitations on Applicability**

The provisions of this ordinance shall not apply to any person who hires, leases or occupies any part of a building or enclosed structure, or portion thereof, for the exhibition or sale of goods, wares or merchandise for a period of more than two consecutive days and less than ten consecutive days on less than three occasions in any calendar year.

**SECTION EIGHTEEN**

The provisions of this ordinance shall not apply to any person operating a business within the Farmers and Ranchers Market Vending District who has entered into a concession contract with the County of Zapata.

**SECTION NINETEEN**

The provisions of this ordinance shall not be construed as prohibiting the distribution or sale of newspapers, pamphlets, handbills or other written or printed matter sold or distributed for the purpose of disseminating news and information.

**SECTION TWENTY**

**Buy Zapata, Buy Local Preference**

The provisions of Section Five, Six and Seven of this ordinance requiring vendors within the County of Zapata to obtain a license shall not apply to the sale of any farm produce or farm products including but not limited to any horticultural products, fruits, vegetables, garden products, butter, eggs, or poultry by any farmer or producer, or any employee of any farmer or producer, who shall grow or process such farm produce or farm products in the County of Zapata or any adjacent county.

**SECTION TWENTY-ONE**

**Power to Confiscate, Release of Goods, Disposition of Goods**

- A. Any goods, wares, merchandise, flowers, horticultural products, food or beverages sold or offered for sale by a vendor who is charged with a violation of this ordinance may be confiscated by the Sheriff's department, the Health Department or the Zapata County Code Enforcement Office and held pending the prosecution of such violation.
  
- B. Any goods, wares, merchandise, flowers, horticultural products, services, food or beverages being held pursuant to this section shall only be released upon notification by the warrant officer for county violations that such goods, wares, merchandise, flowers, horticultural products, services, food or beverages are no longer necessary for prosecution.

- C. If such goods, wares, merchandise, flowers, horticultural products, services, food or beverages are not redeemed by the vendor or the vendor's agent within a reasonable time after the disposition of any summons issued for a violation of this ordinance, they may be disposed of in any manner deemed in the best interest of public health and safety.

## **SECTION TWENTY-TWO**

### **Penalty**

Any person who is found guilty or enters a plea of guilty to a violation of any provision of this ordinance, or who knowingly furnishes false information on any license or permit application required by this ordinance, shall be subject to a fine of not less than \$50.00 and nor more than \$500.00.

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## **SECTION TWENTY-THREE**

### **Revocation of License**

The Code Enforcement Department shall revoke any vendor's license issued herein if the licensee is found guilty or enters a plea of guilty to a violation of any provision of this ordinance or violates any license regulation promulgation under the authority of this ordinance. A licensee shall not be entitled to a refund of the fees paid for any license which is subsequently revoked as provided herein.

## **SECTION TWENTY-FOUR**

### **Severability**

The provisions of this ordinance shall be severable. In the event that any provision of this ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this ordinance are valid unless the court finds the valid provisions of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Zapata County Commissioners Court would have enacted the valid provisions without the void ones or unless the Court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

## **SECTION TWENTY-FIVE**

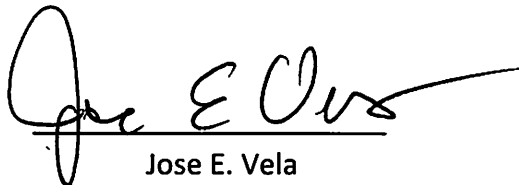
Reserved for expansion

SECTION TWENTY-SIX  
Effective Date of Ordinance

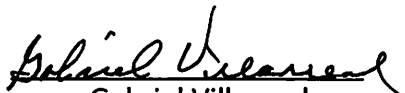
The provisions of this ordinance shall become effective on July 1, 2011.

INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE COMMISSIONER'S COURT 62225  
OF ZAPATA COUNTY ON THIS, THE NINTH (9<sup>TH</sup>) DAY OF MAY, 2011.

  
Joseph Rathmell  
Zapata County Judge

  
Jose E. Vela  
Commissioner Pct. 1

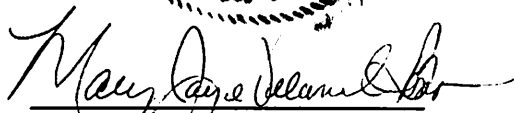
  
Eddie Martinez  
Commissioner Pct. 3

  
Gabriel Villarreal  
Commissioner Pct. 2

  
Norberto Garza  
Commissioner Pct. 4



Attested by

  
Mary Jane Villarreal-Bonoan

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