

ORDINANCE NO. 2009-30

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 22-13 OF THE CODE OF THE CITY OF ST. AUGUSTINE PROHIBITING THE VENDING AND SALE OF FOODSTUFFS, BEVERAGES AND REFRESHMENTS ON THE PUBLIC STREETS, SIDEWALKS, ALLEYWAYS AND RIGHTS-OF-WAY OF THE CITY OF ST. AUGUSTINE; MAKING FINDINGS; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Augustine finds that the protection and preservation of free pedestrian, vehicular and emergency services access on the public streets, sidewalks, alleyways and rights-of-way located within the municipal boundaries of the City require regulation of sales and vending activities which may block or impede such access; and

WHEREAS, the public streets, sidewalks, alleyways and rights-of-way located within the City generally follow a plan of development conceived and implemented in historic times before the advent of motor-driven vehicles and heavy traffic flows of pedestrians and motor vehicles; and

WHEREAS, the public streets, sidewalks, alleyways and rights-of-way located outside of the areas of the City developed under plans pre-dating the advent of motor-driven vehicles cannot accommodate the obstruction of pedestrian and vehicular passage due to the presence of food and beverage sales facilities and the sales activities associated with those facilities without endangering the public health, safety and welfare;

WHEREAS, the City Commission finds that the preservation of the aesthetics of an historically important city which is the oldest continuously occupied European settlement in North America would suffer an adverse impact by the presence of facilities, crowd congestion, litter and wasted food generated by the vending and sale of foodstuffs, beverages and refreshments on the streets, sidewalks, alleyways and rights-of-way of the City; and

WHEREAS, the City's experience with vending of foodstuffs, beverages and refreshments in public areas clearly indicates that vending and sales of said foodstuffs, beverages and refreshments on public streets, sidewalks, alleyways and rights-of-way would undermine the commercial life of the City by reducing sales by local merchants operating on private property abutting and adjacent to the said public streets, sidewalks, alleyways and rights-of-way, thereby eroding the City's tax revenues due to unfair competition and the erosion of a vibrant and stable local merchant economy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Creating Section 22-13 of the City Code. Section 22-13 of the Code of the City of St. Augustine is hereby created to read, as follows:

“Sec. 22-13. Prohibiting the Vending and Sale of Foodstuffs, Beverages and Refreshments on the Public Streets, Sidewalks, Alleyways and Rights-of-Way of the City.

(a) Intent. The City Commission of the City of St. Augustine hereby ratifies, approves and adopts all of the foregoing predicate ‘Whereas’ clauses. The City Commission

finds that the existence in the City of vendors and sales of foodstuffs, beverages and refreshments on the public streets, sidewalks, alleyways and rights-of-way of the City would interfere with the public health, safety and welfare of pedestrian, vehicular and emergency access traffic, including traffic by residents and tourists, by blocking and congesting the said public streets, sidewalks, alleyways and rights-of-way; would damage the aesthetics of an historically important city and would undermine the commercial life of the City.

(b) 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:

(1) Vendors means individuals who sell or offer for sale, compensation or donation, or rent or offer for rent, foodstuffs, beverages or refreshments.

(2) Vending or Sale means to sell or offer for sale, compensation or donation, or rent or offer for rent, foodstuffs, beverages or refreshments.

(c) Prohibition. No vendors may vend and no sales persons may vend or sell foodstuffs, beverages or refreshments on any public street, sidewalk, alleyway or right-of-way anywhere in the City of St. Augustine.

(d) Penalties. Offenses under this section shall be punishable as provided in section 1-8 of this Code.”

Section 2. Inclusion in Code. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Code of the City of St. Augustine, that the sections of this ordinance may be renumbered or relettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5. Effective Date. This ordinance shall become effective ten (10) days after passage pursuant to s. 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2009.

ATTEST:

Joe Boles, Mayor-Commissioner

Karen Rogers, CMC, City Clerk

(SEAL)

Coding: Words ~~stricken~~ are deletions; words underlined are additions.