

ORDINANCE NO. 2022-10-06

**AN ORDINANCE OF THE CITY OF GORMAN, TEXAS REPEALING AND REPLACING ORDINANCE 225B; ADOPTING REGULATIONS REGARDING SOLICITORS AND MOBILE FOOD VENDORS; REQUIRING REGISTRATION AND ASSOCIATED FEES; PROVIDING EXCEPTIONS; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Gorman (the “City”) is a home-rule municipality created pursuant to Article XI Section 5 of the Texas Constitution with powers of local self-government, including the power to adopt and enforce ordinances necessary to preserve good government, order, and security to the City and its inhabitants;

**WHEREAS**, the City Commission of the City of Gorman (the “City Commission”) finds that it promotes the health, safety, and welfare of the citizens of the City to regulate solicitors and food trucks within the City and require that those individuals be licensed so the City and its Police Department are aware of their presence in the City;

**WHEREAS**, to that end, the City Commission adopted an ordinance regulating the same on March 7, 2013, but the City Commission has determined to update that ordinance in general and to include provisions regarding food trucks which have become more popular in the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GORMAN, TEXAS:**

**Section 1. Incorporation of Premises.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2. Repeal.** Ordinance 225B, adopted on March 7, 2013, is hereby repealed. Any other prior ordinance or prior ordinance provision is hereby repealed to the extent that such ordinance or provision of an ordinance conflicts or contradicts this Ordinance.

**Section 3. Definitions.** As used in this Ordinance, the following words have the meaning indicated:

(a) *Itinerant vendor* is a person who operates any temporary business on privately-owned property or in the public right-of-way soliciting, selling, or taking orders for, or offering to sell or take orders for, any goods or services. A temporary business is one that continues for ninety (90) days or less and where solicitation is conducted from a stand, a vehicle, or freestanding. The term “itinerant vendor” excludes mobile food vendors.

(b) *Mobile food vendor* is a person that offers edible goods for sale to the public from a mobile food truck (a self-contained motorized unit), a concession cart (a mobile vending unit that must be moved by non-motorized means), or a concession trailer (a vending unit that is pulled by a motorized unit and has no power to move on its own).

(c) *Peddler* is a person who travels from house to house or from street to street and attempts to make contact with a person at his/her residence, business, or upon the public right-of-way without prior specific invitation from or appointment with the person for the primary purpose of attempting to sell a good or service. The word “peddler” shall not include individuals traveling to businesses, houses, or places at the invitation of owner or resident.

(d) *Solicitor* is a person who attempts to make contact with a person at his/her residence, business, or upon the public right-of-way without prior specific invitation from or appointment with the person for the primary purpose of distributing a handbill or flyer advertising a commercial event or service or soliciting donations or funds for a commercial, for-profit event or business.

**Section 4. Registration Required.** No person shall act as a peddler, itinerant vendor, solicitor, or mobile food vendor within the City of Gorman without first registering with the City as provided in this Ordinance.

**Section 5. Registration Card.**

(a) Each person or organization wishing to act as an itinerant vendor, peddler, or solicitor must apply for a registration card by completing an application, on file at City Hall, and submitting the registration fee. An organization applying for registration may have multiple people in that organization acting under one registration.

(b) An applicant for a registration card shall provide the following information:

(1) Name of applicant.

(2) A copy of the driver’s license or other government-issued identification card containing a picture and date of birth of each person who will be acting under the registration.

(3) Permanent and (if any) local address of the applicant and, if an organization, the permanent and (if any) local addresses of all persons who will be using the registration under the organization.

(4) A brief description of the proposed activity related to the registration.

(5) The year, make, model, color, and license plate number of any vehicle(s) which will be used by the applicant, and any person acting under the applicant, to pursue the activities for which the registration is sought.

(c) The application fee for a registration card shall be \$35.00, plus \$20.00 for each additional person acting under the registration.

(d) All registration cards shall be valid for seven (7) calendar days from the date of issuance.

**Section 6. Exemptions.** The following are not required to obtain a registration card described by Section 5 of this Ordinance:

(a) A peddler who is licensed by the State of Texas, including but not limited to, peddlers selling insurance or alarm installation services.

(b) Solicitations and/or sale of donated goods or merchandise for charity.

- (c) Solicitations and/or sale of goods for religious and non-profit organizations or related to official school activities and functions.
- (d) Persons selling farm produce grown by them on their own lands or on lands that they lease or control.
- (e) Sales made to owners or occupants of private residences or commercial property pursuant to an existing business relationship with a peddler, solicitor, or itinerant vendor.
- (f) Distribution of handbills or pamphlets only for the purpose of communicating general issues of general interest to the public by religious, political, or non-profit organizations (also known as canvassing).

**Section 7. Prohibited Activities.** No peddler, solicitor, or itinerant vendor, even those who are not required to obtain permits under this Ordinance, shall:

- (a) Enter upon private property where there is a clearly posted “no soliciting” or similar sign, visible from the right-of-way.
- (b) Remain upon any private property where there is a “no soliciting” or similar sign posted on the door or entryway.
- (c) Use or attempt to use any entrance to private property other than the front or main entrance, except by express invitation from the resident or occupant of the property.
- (d) Remove a “no soliciting” or similar sign from any yard, door, or entrance of private property.
- (e) Enter upon the property of another earlier than 30 minutes after sunrise or later than 30 minutes before sunset, except with the express consent of the resident.
- (f) Enter upon the property of another on Sundays or on official State or Federal holidays, except with the express consent of the resident.
- (g) Peddle, solicit, or sell for a purpose other than that set out in the application for which the permit was issued.
- (h) Remain on property after the resident, occupant, or owner of the property has asked the person to leave.

**Section 8. Mobile Food Vendor Registration Card.**

- (a) Each person or organization wishing to act as a mobile food vendor must apply for a mobile food vendor registration card by completing an application, on file at City Hall, and submitting the registration fee. An organization applying for registration may have multiple people in that organization acting under one registration.
- (b) An applicant for a registration card shall provide the following information:

- (1) Name of applicant.
- (2) A copy of the driver's license or other government-issued identification card containing a picture and date of birth of each person who will be acting under the registration.
- (3) Permanent and (if any) local address of the applicant and, if an organization, the permanent and (if any) local addresses of all persons who will be using the registration under the organization.
- (4) The year, make, model, color, and license plate number of any vehicle(s) which will be used by the applicant, and any person acting under the applicant, to pursue the activities for which the registration is sought.
- (5) Information regarding the dates and approximate times during which the applicant wishes to sell food under the registration.
- (6) Information regarding the location(s) where the applicant plans to be parked to sell food under the registration.
- (7) If applicable, written permission from private property owners allowing the applicant to park on said property.

(c) The application fee for a mobile food vendor registration card shall be \$100.00.

(d) All mobile food vendor registration cards shall be valid for one (1) year from the date of issuance.

#### **Section 9. Mobile Food Vendor Rules.**

(a) Every mobile food vendor shall ensure that the vendor complies with any and all requirements of applicable state law regarding mobile food establishments.

(b) Location.

- (1) Mobile food vendors may park on private property, with the written permission of the property owner.
- (2) Mobile food vendors may park on public streets adjacent to private property; however, a mobile food vendor may not park within 50 feet from the property line of any existing brick-and-mortar restaurant during the restaurant's operating hours without written permission from the restaurant owner or manager.
- (3) Mobile food vendors may park on public streets adjacent to public property.

**Section 10. Penalty.** Any person or organization violating the provisions of this Ordinance shall be charged with a Class C misdemeanor and, upon conviction for same, shall be subject to a fine of not more than \$500.00. Each day the violation continues shall be a separate offense.

**Section 11. Revocation of Registration.** The Judge of the Municipal Court may revoke a Registration Card or Mobile Food Vendor Registration Card if the permit holder is found guilty of violating this Ordinance.

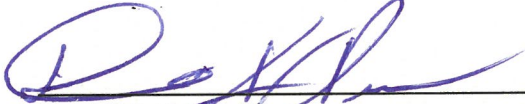
**Section 12. Severability.** Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstances for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, or ineffectiveness or such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof, but as to such remaining

portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

**Section 13. Effective Date.** This Ordinance shall take effect and be in full force and effect from and after the date of its passage and publication of the Ordinance for at least ten (10) days in a daily newspaper or two (2) issues of a weekly paper published within the City.

**PASSED** upon first reading this the 1<sup>st</sup> day of September 2022.

**PASSED, APPROVED, AND ADOPTED** upon second and final reading this the 6<sup>th</sup> day of October 2022.

  
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David K. Perry, Mayor

ATTEST:

  
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Tacy Warren, City Secretary