

CITY OF HEMPHILL, TEXAS

ORDINANCE #2023-003

REVISING CHAPTER 8 – BUSINESS LICENSING AND REGULATION, ARTICLE V. – PEDDLERS, SOLICITORS, ITINERANT VENDORS/MERCHANTS, AND MOBILE VENDORS IN THE CITY OF HEMPHILL’S CODE OF ORDINANCES

WHEREAS, the City of Hemphill’s Code of Ordinances has an official Peddlers, Solicitors, Itinerant Vendors ordinance (“Vendor Ordinance”) which is not sufficient to address current conditions;

WHEREAS, the City Council want to establish a Vendor Ordinance which helps to regulate temporary business, protect consumers, protect established business, and support economic activity; and

WHEREAS, vendor rules and regulations should be clear to all business and property owners as well as to administrators and municipal enforcement personnel.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEMPHILL, TEXAS, THAT: Chapter 8. Business Licensing and Regulation, Article V. – Peddlers, Solicitors, Itinerant Vendor/Merchants, and Mobile Vendors is amended to read as follows:

ARTICLE V. -PEDDLERS, SOLICITORS, ITINERANT VENDORS/MERCHANTS, AND MOBILE VENDORS

Sec. 8-105. - Purpose.

The purpose of this article is to provide for the general health, public safety and welfare, comfort, convenience and protection of the city and the residents of the city by:

- (1) Creating a permit procedure so that solicitors and handbill distributors register with the city in order to assist crime detection efforts and deter deceptive practices and fraud;
- (2) Prohibiting door-to-door solicitation and canvassing activity at residences during the times when such activity is most intrusive and disruptive to citizens' privacy; and
- (3) Regulating the manner in which any solicitation activity, canvassing activity or handbill distribution may occur to promote good order, prevent litter and protect citizens from aggressive and intimidating practices.

Sec. 8-106. -Definitions.

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

Charitable Purpose: Philanthropic, religious, or other nonprofit objectives, including the benefit of poor, needy, sick, refugee, or handicapped persons; the benefit of any church, religious society, sect, group, or order; the benefit of a patriotic or veterans' association or organization; the benefit of any fraternal, social, or civic organization; or the benefit of any educational institution.

Consumer: An individual who seeks or acquires real or personal property, services, money, or credit for personal, family, or household purposes.

Consumer Transaction: A sales transaction in which one or more of the parties are a consumer.

Handbill: Includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature.

Home Solicitation: Soliciting in person or by telephone call from house to house for the purposes of selling or attempting to sell goods, merchandise, wares, services, or anything of value or to take or attempt to take orders for the future delivery of goods, merchandise, wares, or any personal property of any nature whatsoever, or to take or attempt to take orders for services to be furnished or performed in the future.

Itinerant Vendor, Itinerant Merchant, or Street Vendor: Any individual or business, including mobile food vendors, who desires to do business from a fixed location without traveling from place to place, house to house, or street to street or who sets up and operates a temporary business on privately owned property, whether improved or unimproved, in the city, 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 forty-five (45) days or less.

Job Placement Activities: Any request, offer, enticement, or action which announces the availability for, or of employment, or seeks to secure employment.

Mobile Vendor: An individual or business that conducts business moving from place to place in the city soliciting, selling, or distributing goods, foods, wares, merchandise, services, money, photographs, newspapers, or magazines being dispensed from the vehicle directly to the customer.

Moral Turpitude: Conduct involving dishonesty, fraud, deceit, perjury, and misrepresentation.

Peddler: Any person, itinerant merchant or vendor who goes from house-to-house or from place-to-place in the city soliciting, selling, or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, money, photographs, newspapers, or magazines.

Person: An individual, corporation, trust, partnership, association, or any other legal entity.

Political Purpose: Any form of communication relating to a political issue, a particular candidate to a position or nonpartisan office, or to a political party.

Public Right-of-Way: The traveled portion of a roadway, traffic medians, and the area that is within ten (10) feet of the curb line. In the absence of a curb line, the area within ten (10) feet of the shoulder of a road or highway.

Residence: Any separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

Residential Street: A thoroughfare, collector, or local street abutting residential property.

Solicitation, Soliciting, Solicited: The act of asking, bartering, or communicating in any other such manner, whether orally, by written and or printed material, hand signing, or by any other method, direct or implied, by an individual or group of individuals for the purpose of receiving or obtaining money, alms, gifts, or items of value, real or intrinsic for said individual, person, or group of individuals, an organization, joint venture, joint stock company, partnership, club, company, corporation, business, trust, or any other organization or affiliate thereof.

Solicit Funds or Solicitation of Funds: Any request for money, property, or anything of value, or the pledge of a future payment of money, or delivery of property, or anything of value; or the selling or

offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications, or subscriptions to publications.

Sec. 8-107. -Permit Required.

- a) Every person, business, or entity defined above selling or soliciting for sale any type of goods, wares, services or products as defined above within the city shall first secure a permit from city hall before they shall be allowed to sell or solicit for sale any type of goods, wares, services, products or advertising materials covered by this article or by state or federal laws. Nonprofit organizations shall be excluded from provisions of this article but are required to apply for a Public Property Use Permit.
- b) In order to obtain a license, each person must be able to provide, if required:
 - a. Produce identification;
 - b. Have a permission letter from the land owner allowing the vendor on their property, with dates and times allowed;
 - c. Produce a valid state sale and use tax permit, if applicable;
 - d. Produce a copy of a current inspection and certifications required by the Texas Department of State Health Services;
 - e. If products were purchased for resale, produce proof of purchase either in the form of cancelled check or invoice stamped "paid" by supplier or by notarized statement substantiating such purchase; and
 - f. Make payment of permit fees as specified in section 8-108.
- c) The city reserves the right to delay issuance of the permit for a four-day investigation period, excluding Saturdays, Sundays and holidays.
- d) The license issued by the city shall be on a form as established by the city council from time to time.

Sec. 8-108. - Fees for each type for issuance.

The fee for each type of permit shall be as established by the city council, from time to time. A deposit may be required by the city to cover cost of cleaning litter from public property and/or other city services which may be required and is refundable at termination of activity if no cleaning or services from the city are required.

This ordinance shall become effective on and after its passage, approval, and publication, as provided by law.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Hemphill, Texas this the 20th day of February, 2024.

APPROVED:

ROBERT HAMILTON, MAYOR

ATTEST:

SEAL

KELLI BEALL, CITY SECRETARY/ACCOUNTANT