

ORDINANCE 06-296

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF MASON, TEXAS, PROVIDING FOR THE REGULATION OF PEDDLERS, SOLICITORS AND VENDORS; PROVIDING FOR THE ISSUANCE OF PERMITS; PROVIDING FOR THE SUSPENSION OR REVOCATION OF PERMITS; AND ESTABLISHING A PENALTY FOR FAILURE TO ABIDE BY THIS ORDINANCE.

WHEREAS, the City Commission desires to promote public welfare and the health and safety of its citizens by regulating peddlers, solicitors and vendors within the City of Mason;

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

SECTION 1. DEFINITIONS

§ The following definitions shall apply to this Ordinance:

A. PEDDLER / SOLICITOR: Any person, whether a resident of the **City of Mason** or not, traveling by foot, vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, for the sale of , as well as offering for sale, or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future or immediate delivery, or for services to

be performed immediately or in the future, whether or not such person had, carries or exposed for sale a sample of the subject of such sale or not, or whether he is collecting advance payments on such sales or not. The word “peddler” shall include the terms “canvasser” and “solicitor.”

B. VENDOR: Any person, whether a resident of the **City of Mason** or not, who offers for sale food, beverages, goods, merchandise, or for services to be performed immediately or in the future, from a certain location, for a period of more than fifteen (15) minutes, that is not within a building or structure for which a certificate of occupancy is required by the **City of Mason**.

C. PUBLIC RIGHT OF WAY: All areas legally open to public use, such as public streets, sidewalks, roadways, highways, parkways, alleys, and parks, as well as the interior of and areas surrounding public buildings.

D. MOTOR VEHICLE: Any vehicle, including trucks, automobiles and trailers, used for the displaying, storing or transporting of articles for sale by a vendor, and which is required to be licensed and registered by the **State of Texas**.

E. SPECIAL EVENT: Any occasion including, but not limited to fairs, shows, exhibitions, city wide celebrations (such as Mason Roundup Weekend), festivals, etc. within a specifically defined area of the **City of Mason** for a period of time established by the City Commission.

F. STAND: Any newsstand, table, bench, booth, rack, handcart, pushcart, vehicle or any other fixture or device used for the display or storage of articles offered for sale by a vendor or peddler.

SECTION 2. PROHIBITED USE OF PUBLIC RIGHT OF WAY

§ It shall be unlawful for any Peddler / Vendor to engage in business within any public right of ways within the **City of Mason** without specific authorization as provided in Section 3 below.

SECTION 3. EXEMPTIONS FOR USE OF PUBLIC RIGHT OF WAYS

§ Peddlers / Vendors may locate within a public right of way under the following circumstances.

A. LICENSE: The vendor must have an approved license from the **City of Mason**.

B. VENDORS: May locate within a designated public right of way in connection with a special event approved by the City Commission and the appropriate body organizing and implementing the special event..

C. PEDDLERS: May utilize streets and roads to travel from house to house or place to place in pursuit of their business.

D. ICE CREAM VEHICLES: May use public right of ways provided they do not remain in one location for longer than fifteen (15) minutes.

SECTION 4. SALES TAX PERMIT REQUIRED

§ Unless specifically permitted by State law, it shall be unlawful for any Peddler / Vendor to engage in business within the **City of Mason** without having obtained and presented to an authorized representative of the **City of Mason** a sales tax permit issued by the **State of Texas**.

SECTION 5. PEDDLER / VENDOR PERMIT REQUIRED

§ It shall be unlawful for any Peddler / Vendor to engage in business within the boundaries of the **City of Mason** without first obtaining a permit from the **City of Mason** as provided by this Ordinance unless specifically invited by the owner of the business or residence.

SECTION 6. EXEMPTIONS FROM PEDDLER / VENDOR PERMIT REQUIREMENT

§ Peddlers / Vendors may operate without a **City of Mason** permit under the following circumstances:

- A. NEWSPAPER CARRIERS:** Exempt only on paid subscriptions.
- B. NON-PROFIT ORGANIZATIONS:** Locally based non-profit organizations are exempt from the formal permitting process. Local non-profit organizations that plan to use public right of ways shall be required to provide written notification to the **City of Mason** as to the approximate dates of fund raising activities, the specific areas in which they will be selling, and a description of the items to be sold.
- C. PEDDLERS / VENDORS:** Those Peddlers / Vendors operating within a designated public way in connection with a special event approved by the City Commission and by the appropriate body organizing and implementing the special event.

SECTION 7. WRITTEN APPLICATION FOR PERMIT REQUIRED

§ Each person acting as, or representing, a Peddler / Vendor and desiring to engage in commerce within the **City of Mason** must file a written application to the City Secretary or their assignee for a permit with the **City of Mason**, and shall include the following information for each individual involved as a Peddler / Vendor:

A. Name, telephone number, mailing address, birth date and either:

1. Driver's License, or
2. Social Security Card and a Federal government issued picture identification card.

B. Information regarding any commercial, charitable or political organization which the Peddler / Vendor is representing including:

1. Name of organization.
2. Mailing address of organization.
3. Name of principal of the organization.
4. Telephone number of the organization.

C. A full and complete list of goods to be sold and/or services to be delivered and the type of business for which the license is desired.

D. The location where the business is to be conducted.

E. The length of time for which license is desired.

F. Description (year, make and model), license plate number and State, and proof of insurance of all motor vehicles or trailers to be used in soliciting and peddling.

G. Types of advertising or signage intended if any. Signage is subject to existing **City of Mason** ordinances.

- H.** Applicants must provide original identifying documents to the **City of Mason** upon request.
- I.** A statement that the applicant has not been convicted of any felony of any nature or any other crimes of moral turpitude in the **State of Texas** or any other State, and if they have been convicted, a full statement as to the crime for which the applicant was convicted, and the geographical location of the Court in which the conviction was entered.
- J.** A Vendor, except for special events, shall provide the following additional information:
 - 1.** A letter from the owner of the property on which the Vendor intends to conduct business. Said letter must state that the Vendor had permission to operate at that location.
 - 2.** A site plan or diagram describing where the Vendor intends to locate and the relation to the adjacent right of way. (The location of a Vendor business may not be allowed if it results in a reduction of the number of parking spaces serving an existing business to a number below that required by **City of Mason** ordinances.

SECTION 8. PERMIT FEES

§ All Peddlers / Vendors, not exempted by Section 9, shall pay the following permit fees, which shall be valid only for the specific dates for which they were issued, not to exceed thirty (30) days.

- A.** One person - \$25
- B.** Each additional person - \$10 per person.

§ No permit shall be issued prior to receipt of the permit fees.

SECTION 9. EXEMPTION FROM PERMIT FEES

§ The following are exempt from permit fees.

A. Any individual soliciting or peddling for a philanthropic, charitable, political or religious organization.

SECTION 10. PERMIT APPLICATION - INVESTIGATION

§ A copy of the application for permit may be provided by the **City of Mason** to the **Mason County Sheriff's Office** who shall undertake an investigation of the applicant's record and background such as shall be reasonably necessary to protect the public. An application for permit under this Ordinance may be reasonably denied if the applicant is currently wanted on warrant for arrest, or if the applicant has been convicted of a felony involving theft, fraud, bribery, perjury, unauthorized use of a motor vehicle, rape, assault, or other crime of moral turpitude.

SECTION 11. PERMIT ISSUANCE

§ The City Secretary or their assignee shall review all information relevant to the issuance of a Peddler / Vendor permit and shall within three (3) business days, make the determination whether said permit is granted or denied. Before any permit is denied the City Secretary shall consult the City Administrator.

SECTION 12. PERMIT DURATION

§ Each permit shall be valid only for the period specified and no permit may extend beyond the thirty-first (31) day of December of the year in which it is granted.

§ All permits shall provide that the Peddler/Vendor is authorized to engage in business within the boundaries of the City of Mason only between the hours of 10:a.m. and 6:30 p.m. for each day covered by the permit.

§ No permit shall authorize a Peddler/Vendor to engage in business within the City of Mason on a Sunday.

SECTION 13. PERMIT NOT TRANSFERABLE

§ Each permit shall be nontransferable. No refunds shall be made on unused portions of permits. Each Peddler / Vendor shall secure a separate license.

SECTION 14. PERMIT TO BE CARRIED OR POSTED

§ Each permit shall be carried by the Peddler / Vendor, or conspicuously posted in the Peddler / Vendor's place of business.

§ The permit shall be exhibited to any officer or citizen upon such officer or citizens request.

SECTION 15. PERMIT REVOCATION

§ If after the permit provided for in this Ordinance has been issued, it is determined that the permit was obtained by false representation in the application, such permit may be revoked. Such permit may also be revoked if

the holder of such permit has violated any ordinance of the **City of Mason** or any law of the **State of Texas** in connection with any soliciting or selling by such permit holder, or in connection with the collection, or attempted collection of any account due to such permit holder or his employer, or in connection with the repossession of goods sold by such permit holder or any other person employed by the employer of such permit holder.

SECTION 16. APPEAL OF DENIAL OF PERMIT

§ If the applicant for a permit under this Ordinance or the holder of such permit is dissatisfied with any finding of the City staff or Sheriff, the applicant shall have the right to appeal to the City Commission by filing a written notice of such appeal with the City Secretary within ten (10) days from the making and filing of such decision of the City Secretary. Upon filing of such notice of appeal, the application for the permit and all papers possessed by the City Secretary in connection with such application and such permit shall be delivered to the City Commission, and such matters as may be controverted shall be heard by the City Commission at its next Regular meeting after the filing of the notice of appeal.

SECTION 17. REPEALING CLAUSE

§ This ordinance shall repeal all ordinances, parts of ordinances, and amendments to such ordinances in conflict with the terms and conditions herein.

SECTION 18. SEVERABILITY

§ The provisions of this Ordinance are declared severable, and if any section, sentence, clause, phrase, or word of this Ordinance shall for any reason be held invalid, such decision shall not affect the validity of the remaining section, sentences, clauses, phrases, and words of this Ordinance, but same shall remain in effect, it being the intent of the City Commission that this Ordinance shall stand, notwithstanding the invalidity of any part.

SECTION 19. PENALTY

§ Any person, partnership, association, company, corporation or other business entity violating any provision of this Ordinance within the corporate limits of the **City of Mason**, shall be guilty of a misdemeanor, and upon conviction, shall be fined an amount not less than \$100 and not exceeding \$500 for each offense, and each day, or portion of a day, shall be deemed a separate offense.

SECTION 20. EFFECTIVE DATE

§ *PASSED* and *APPROVED* the 24th day of April, 2006.

APPROVED:

/s/ Brent Hinckley, Mayor

ATTEST:

/s/ Pattie Grote, City Secretary