

**ORDINANCE NO. 19-08**

**AN ORDINANCE OF THE CITY OF BRONTE, TEXAS REPEALING AND REPLACING ORDINANCE # 310; REGULATING PEDDLERS, SOLICITORS, ITINERANT VENDORS, AND MOBILE FOOD VENDORS; REQUIRING PERMITS FOR SAME; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY AND REPLEALER CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Chapter 215 of the Texas Local Government Code the City of Bronte (the "City") is authorized to regulate and license businesses and peddlers;

**WHEREAS**, the United States Supreme Court has consistently recognized the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when solicitation of money is involved;

**WHEREAS**, an important part of the freedom enjoyed by all citizens and residents of the United States is the right to speak freely, to express ideas that may be unpopular, and to engage others in debate without government interference;

**WHEREAS**, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the Constitution of the United States and of Texas, while attempting to minimize fraud, prevent crime, and protect the privacy of private citizens;

**WHEREAS**, the City Council of the City of Bronte, Texas (the "City Council") finds that it is in the best interest of the health, safety, and welfare of the citizens of Bronte to regulate peddlers, solicitors, itinerant vendors, and mobile food vendors;

**WHEREAS**, the City Council finds that mobile food vendors are increasing in popularity throughout the country and should be allowed to operate in the City but that local taxpaying businesses should be protected from interference from said vendors;

**WHEREAS**, the City Council finds that mobile food vendors do not pose a significant threat to the health, safety, and welfare of the citizens of Bronte so should not be subject to the same strict requirements that apply to peddlers, solicitors, and itinerant vendors; and

**WHEREAS**, the City Council finds that the regulations contained in this Ordinance properly balance constitutional rights with the City's need to protect its citizens and are in the best interest of the health, safety, and welfare of the citizens of Bronte.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRONTE, TEXAS THAT:**

**Section 1. Repeal and Enactment.** Ordinance # 310, adopted on May 7, 1998, is hereby repealed. All other ordinances or parts of ordinances in conflict with this Ordinance shall be and are hereby repealed to the extent of such conflict. The provisions contained in this Ordinance are hereby enacted as the Solicitor Ordinance of the City of Bronte, Texas.

**Section 2. 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, exists whether solicitation is from a stand, 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 the resident or owner.

(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 3. Permit Required.** No person shall act as a peddler, itinerant vendor, solicitor, or mobile food vendor without first obtaining a permit for same in accordance with this Ordinance.

#### **Section 4. Peddler Permit.**

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

(b) Contents of Application. The applicant shall provide the following information:

- (1) Name of applicant.
- (2) Duration of permit (daily or annual).
- (3) 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 permit.
- (4) Permanent and (if any) local address of the applicant and, if an organization, all persons who will be using the permit under the organization.
- (5) A brief description of the proposed activity related to the permit.
- (6) A list of all misdemeanor or felony convictions, within the last ten (10) years, of the applicant and, if an organization, of all persons who will be using the permit under the organization.

- (7) The make, model, year, 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 permit is sought.
- (c) Investigation. After receiving an application for a peddler permit, the City shall conduct an investigation into the accuracy of the information contained on the application. With the assistance of the Coke County Sheriff's Office, the City may obtain a background check on each applicant and all other persons listed on an application.
- (d) Approval or Denial of Application.
- (1) The application shall be approved by the City Secretary within ten (10) business days after the application is completed and filed. The peddler permit shall be provided to the applicant upon receipt of payment of the permit fee established in the Fee Schedule Ordinance.
- (2) If it is determined that the applicant, or any person to work under the applicant, has been convicted of a felony or a misdemeanor involving moral turpitude within the ten (10) years or that any statement upon the application is false, the City Secretary shall deny the permit application within ten (10) business days after the application is completed and filed.
- (e) Appeal. A person may appeal the denial of a peddler permit to the City Council by submitting a written request for an appeal to the City Secretary within ten (10) business days of the denial or revocation.
- (f) Display. Each person operating under a peddler permit shall carry a copy of the permit on their person at all times that the person is conducting solicitation or sales activities under the permit. Itinerant vendors shall prominently display the permit at the location where the vendor is selling goods.

## **Section 5. Exemptions.**

The following are not required to obtain a permit described by Section 4 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.
- (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 6. No Soliciting List.** The City Secretary shall maintain a No Soliciting List at City Hall. Residents wishing to avoid visits from peddlers, solicitors, or itinerant vendors shall provide written notice to the City Secretary that the resident wishes to be on the List. The No Soliciting List shall be provided to persons receiving a peddler permit at the time the permit is issued.

**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) Enter upon any private property which is listed on the City’s No Soliciting List.
- (d) 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.
- (e) Remove a “no soliciting” or similar sign from any yard, door, or entrance of private property.
- (f) Enter upon the property of another earlier than 8:00 a.m. or later than 30 minutes before sunset, except with the express consent of the resident.
- (g) Enter upon the property of another on Sundays or on official State or Federal holidays, except with the express consent of the resident.
- (h) Peddle, solicit, or sell for a purpose other than that set out in the application for which the permit was issued.
- (i) Remain on property after the resident, occupant, or owner of property has asked the person to leave.

**Section 8. Mobile Food Vendors.**

- (a) Permit Application. Each person or organization wishing to act as a mobile food vendor in the City of Bronte must apply for a mobile food vendor permit by completing an application, on file at City Hall, and submitting the application fee as established by the Fee Schedule Ordinance.
- (b) Contents of Application. The applicant shall provide the following information:
  - (1) Name of applicant.

- (2) Duration of permit (daily or annual).
- (3) 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 permit.
- (4) Permanent and (if any) local address of the applicant and, if an organization, all persons who will be using the permit under the organization.
- (5) The make, model, year, 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 permit is sought.
- (6) Information regarding the dates and approximate times during which the applicant wishes to sell food under the permit.
- (7) Information regarding the location(s) where the applicant plans to be parked to sell food under the permit.
- (8) If applicable, written permission from private property owners allowing the applicant to park adjacent to said property.

(c) Display of Permit. Mobile food vendors shall prominently display the mobile food vendor permit where it can be clearly seen by customers.

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

(e) Location of Mobile Food Vendors.

- (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 9. Penalty; Revocation of Permit.** 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 of a fine of not more than \$500.00. Each day the violation continues shall be a separate offense.

**Section 10. Revocation of Permit.** The Judge of the Municipal Court may revoke the peddler permit or mobile food vendor permit if the permit holder is found guilty of violating this Ordinance or is convicted of barratry under Section 38.12 of the Texas Penal Code.

**Section 11. Severability.** It is hereby declared to be the intention of the City Council that if any phrase, sentence, section, or paragraph of this Ordinance shall be declared unconstitutional or otherwise invalid by final judgment of a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remainder of this Ordinance since the same would have been enacted by the City Council without the incorporation of the unconstitutional or invalid phrase, sentence, section or paragraph.

**Section 12. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Local Government Code.

**Section 13. Effective Date.** This Ordinance shall take effect upon its adoption by the City Council and after publication as required by the Texas Local Government Code.

The above and foregoing ordinance was duly proposed, read in full and adopted on the 5<sup>th</sup> day of September, 2019, at a regular meeting of the City Council.

  
Paul Gohman, Mayor

ATTEST:

  
Teresa Ballard, City Secretary

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