

ORDINANCE NO. 2012-05

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MABANK;

SECTION 1. DEFINITIONS

§ The following definitions shall apply to this Ordinance:

- A. **PEDDLER/SOLICITOR:** Any person, whether a resident of the City of Mabank or not, traveling by foot, vehicle or any other 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 Mabank 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 for structure for which a certificate of occupancy is required by the City of Mabank.
- 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 Rodeo Week, Art Festival), etc. within a specifically defined area of the City of Mabank for a period of time established by the City Council.
- F. **STAND:** Any newsstand, table, bench, booth, rack, handcart, pushcart, vehicle or any other fixture or device used for the display of 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 Mabank 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 for the City of Mabank.

- B. **VENDORS:** May locate within a designated public right of way in connection with a special event approved by the City Secretary 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.

#### 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 Mabank without having obtained and presented to an authorized representative of the City of Mabank 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 Mabank without first obtaining a permit from the City of Mabank as provided by this Ordinance .

#### SECTION 6. EXEMPTIONS FORM PEDDLER/VENDOR PERMIT REQUIREMENT

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

- A. **NOT-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 Mabank 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.
- B. **PEDDLERS/VENDORS:** Those Peddlers/Vendors operating within a designated public way in connection with a special event approved by the City Council 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 Mabank must file a written application the City Secretary or their assignee for a permit with the City of Mabank, 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. 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 or 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 mode), license plate number and State, and proof of insurance of all motor vehicles or trailers to be used in soliciting and peddling.
- G. Applicants must provide original identifying documents to the City of Mabank upon request.
- H. 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, and the geographical location of the Court in which the conviction was entered.
- I. 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 sit 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 and existing business to a number below that required by City of Mabank ordinances.

#### SECTION 8. PERMIT FEES

§ All Peddlers/Vendors, not exempted by Section 6 shall pay the following permit fees, which shall be valid only for the specific dates for which they were issued, not to exceed 1 Year.

- A. 72 Hours \$25.00 for each person
- B. 30 days \$50.00
- C. 1 Year \$200.00 per year.

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

#### SECTION 9. PERMIT APPLICATION-INVESTIGATION

§ A copy of the application for permit may be provided by the City of Mabank to the Mabank Police Department 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 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 10. PERMIT ISSUANCE

§ The City Secretary or their assignee shall review all information relevant to the issuance of a Peddler/Vendor permit

#### SECTION 11. PERMIT DURATION

§ Each permit shall be valid only for the period specified and no permit may extend beyond the thirtieth (30) Day of September of the fiscal 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 Mabank 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 Mabank on a Sunday.

#### SECTION 12. 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 13. 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 14. PERMIT REVOCATION

City of Mabank-Peddler/Vendor Ordinance  
Adopted May 8<sup>th</sup>, 2012

§ 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 Mabank 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/her employer, or in connection with the repossession of goods of sold by such permit holder or any other person employed by the employer of such permit holder.

#### SECTION 17. SEVERALILITY

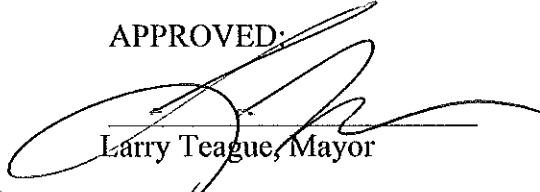
§ The provisions of this Ordinance are declared severable, and if any section, sentence, clause, phrase, or word of this Ordinance shall for any reason be held invalid, such decision shall not affect the validity of the remaining section, sentences, clauses, phrases, and words of this Ordinance, but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

#### SECTION 18. PENALTY


§ Any person, partnership, association, company, corporation or other business entity violating any provision of this Ordinance within the city limits of the City of Mabank, shall be guilty of a misdemeanor, and upon conviction, shall be fined and 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.

PASSED by an affirmative vote of all members of the City Council this 8<sup>th</sup> day of May 2012.

APPROVED:

  
Larry Teague, Mayor

ATTEST:

  
Fairy Gonzalez, City Secretary