

ORDINANCE NO. 3854-2019

AN ORDINANCE REGULATING ITINERANT BUSINESSES AND MOBILE FOOD VENDORS IN THE CITY OF GARDEN CITY, KANSAS; AMENDING CURRENT CODE SECTIONS 22-101, 22-103, 22-105 AND 22-131; ADDING NEW ARTICLE V, AND CODE SECTION 22-240; REPEALING CURRENT CODE SECTIONS 22-101, 22-103, 22-105 AND 22-131; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Garden City, Kansas:

SECTION 1. Section 22-101 of the Code of Ordinances of the City of Garden City, Kansas, is hereby amended, to read as follows:

Sec. 22-101. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Itinerant Business means any person, business, corporation, association, or other entity, however organized, engaging temporarily in the retail sale of goods, wares, merchandise, or services within the city, including any person who for the purpose of conducting such business, rents, leases or occupies any room, building, hotel, motel, structure, parking lot, vacant lot, or motor vehicle of any kind, to sell goods, wares, merchandise, or services, or that goes place to place, or door to door, that may include but not be limited to the premises of a private residence, not having been invited by the occupant, for the purpose of taking or attempting to take orders for the sale of goods, wares, merchandise, or services for immediate or future delivery. A Mobile Food Vendor, as defined in this section, shall not be considered an Itinerant Business.

Mobile Food Vendor means any person, business, corporation, association or other entity, however organized, that offers food and/or beverage for sale from any self-contained motor vehicle.

Noncommercial activity means any activity conducted for personal use or enjoyment without the intent of realizing a profit or recovering costs through the sale of goods, wares, merchandise or services.

Charitable Organization means any entity that has a permanent physical location within Finney County, Kansas which: (1) has been certified as a not-for-profit organization under the Internal Revenue Code, and/or (2) has religious, charitable, or benevolent functions. As used in this definition, a charitable organization is an organization which exclusively, and in a manner consistent with existing laws, operates to address and assist with physical, mental, or spiritual needs of persons. Commercial, for profit organizations or businesses shall not be considered charitable organizations.

Local Itinerant Business License is a license for any business that has a permanent physical location of not less than one thousand (1,000) square feet of retail, office, or warehouse space within Finney County, and has operated at the location for a minimum of twelve (12) consecutive months.

Non-Local Itinerant Business License is a license for any business that does not have a permanent physical location of at least one thousand (1,000) square feet of retail, office, or warehouse space within Finney County, or has a permanent physical location within Finney County but has not operated at the location for the minimum requirement of twelve (12) consecutive months.

SECTION 2. Section 22-103 of the Code of Ordinances of the City of Garden City, Kansas, is hereby amended, to read as follows:

Sec. 22-103. – Exemption.

The following activities, businesses, organizations or persons shall be exempt from the licensing provisions of this article:

(a) Activities or businesses where a special event permit has been obtained, if applicable, or where such activity or business is sponsored in part by the city, civic organizations, not-for-profit organizations, charitable organizations, public or private schools, or educational institutions.

(b) Auctions regulated by this code or state statute.

(c) Garage sales at private residences.

(d) Sales of agricultural products, nursery products and foliage plants at an organized farmer's market or other such event at a specified location; provided, that such sales of agricultural products, nursery products and foliage plants shall comply with the prohibitions listed in Section 22-105.

(e) Sales of Christmas trees and other seasonal items.

(f) Newspaper vendors.

(g) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business.

(h) Sales to the owner or legal occupant of residential premises at such premises pursuant to prior invitation by the owner or legal occupant. Such invitation shall have been issued by the owner or legal occupant at least twenty-four (24) hours prior to the sale and the invitation shall not have been solicited in person, but by other means such as telephone, mailing, email, internet, or other advertisement.

SECTION 3. Section 22-105 of the Code of Ordinances of the City of Garden City, Kansas, is hereby amended, to read as follows:

Sec. 22-105. – Prohibited Acts.

It shall be unlawful for any itinerant business to:

(a) Conduct business or carry on activities in violation of any zoning requirements of the city, including setback requirements.

(b) Conduct business or carry on activities other than between the hours of eight (8) a.m. and eight (8) p.m.

(c) Fail to provide adequate parking for customers or other persons going to and from the activity or business conducted by the itinerant business, or to allow or encourage any traffic or parking congestion which interferes with traffic flow or the use of parking facilities by permanent businesses entitled to use the parking areas.

(d) Use any electronic device for amplification in an outdoor area or to otherwise create, or gather people who create, noise sufficient so as to disturb the peace, quiet or repose of surrounding residential or commercial areas.

(e) Provide any false or misleading information in completing the license application or to fail to obtain permission of the property owner where such activity or business is being conducted.

(f) Fail to provide, at the request of the purchaser or customer, a written receipt for purchases exceeding \$5.00.

(g) Fail to provide any customer, or other person, with his/her name, the name of the company or organization represented, the name of the product, or to make any representation as to the identity which is false or misleading.

(h) Fail to allow authorized law enforcement officers or city employees to enter into or upon the premises, or to otherwise interfere with any inspection of the premises or business.

(i) Fail to remove any structure, tent, device, trash or debris caused, created or associated with the itinerant businesses' activities in an outdoor area.

(j) Erect or display more than one sign or any sign greater than sixteen (16) square feet in total area. Streamers, pennants, search lights and any device with flashing, blinking, rotating or moving actions or messages are prohibited. No signage shall be placed in a public right-of-way.

(k) Erect or construct any temporary structure or tent greater than one hundred forty-four (144) square feet. All temporary structures and tents shall be removed by eight (8) p.m. daily.

(l) Conduct business or carry on activities within fifty (50) feet of any driveway entrance or access lane from a public street to an existing business.

(m) Conduct business or carry on activities within the public right-of-way or other publicly owned property.

SECTION 4. Section 22-131 of the Code of Ordinances of the City of Garden City, Kansas, is hereby amended, to read as follows:

Sec. 22-131. – License required.

(A) No person shall engage in the activities coming under this article within the city without first obtaining a license. Any applicant for a license under this article shall file with the city clerk a sworn application on a form furnished by the city clerk, which shall give information, or provide documentation, as follows:

- (1) Name, date of birth, copy of state or government issued identification card, and permanent residential address of all persons or employees conducting or operating as an itinerant business;

- (2) Date(s) and time(s) for which the license is desired;
- (3) A description of the location and nature of the business, the goods, wares, merchandise or services to be sold, and the manner in which the sales will occur;
- (4) Description (with dimensions) of any temporary structures to be erected, constructed and used by all persons or employees conducting or operating as an itinerant business;
- (5) A statement as to whether or not all persons or employees conducting or operating as an itinerant business has within two (2) years prior to the date of the application been convicted of any felony or misdemeanor of any kind, or a violation of any municipal ordinance regulating business licenses.
- (6) A signed statement from the applicant indicating that all of the information provided is true and correct.
- (7) Proof of a current sales tax license from the State of Kansas or proof of exempt status from state sales tax.
- (8) Provide written permission of the property owner where the itinerant business will be operating or conducting business.

SECTION 5. New Article V, Section 22-240 of the Code of Ordinances of the City of Garden City, Kansas, is hereby added, to read as follows:

Article V. Mobile Food Vendors

Sec. 22-240. – Mobile Food Vendors.

All Mobile Food Vendors, as that term is defined in Section 22-101, shall comply with the following:

(a) Mobile Food Vendors may only operate on improved surfaces in Commercial or Industrial zoned districts.

(b) Mobile Food Vendors are prohibited from operation within a public right-of-way, except as part of a city approved Special Event.

(c) Mobile Food Vendors cannot operate in a vacant lot, except as part of a city approved Special Event.

(d) Mobile Food Vendors shall not interfere with traffic, or create a safety hazard.

(e) All Mobile Food Vendors' motor vehicles shall be maintained in good repair, shall be free from peeling or flaking paint, and shall be clean and sanitary so as to not pose a threat to public health, safety, or welfare.

(f) All Mobile Food Vendors shall be connected safely to electricity and other necessary utilities, so they do not pose a threat to public health, safety, or welfare.

(g) All Mobile Food Vendors shall have a food service permit issued by the State of Kansas.

(h) All Mobile Food Vendors shall obtain a license from the city clerk, and pay the license fee set forth in Code Section 42-165.

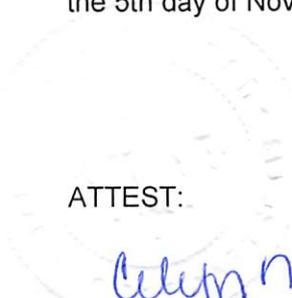
SECTION 6. Code of Ordinances Sections 22-101, 22-103, 22-105 and 22-131, as previously existing, are hereby repealed, to be replaced as specified in this ordinance.

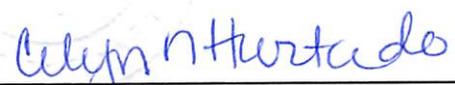
SECTION 7. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

SECTION 8. That this ordinance shall be in full force and effect after its publication in the Garden City Telegram, the official city newspaper.

APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, the 5th day of November, 2019.

ATTEST:





CELYN N. HURTADO, City Clerk



DAN FANKHAUSER, Mayor

APPROVED AS TO FORM:



RANDALL D. GRISELL, City Attorney