

## ORDINANCE NO \_\_\_\_\_

### PROPOSED ORDINANCE TO AMEND CHAPTER 874.02; 874.04; 874.07 and 874.10 INTO THE CITY OF HIGHLAND PARK MUNICIPAL CODE TO ALLOW FOR STREET VENDORS.

#### SECTION 1. Summary

An ordinance to amend Title VIII of the City code by amending Section 874 to allow and regulate street vendors. Thereby repealing ordinance 512 and ordinance 1099 of the municipal code for the City of Highland Park.

**874.01 Street Vendor.** Definitions. For purposes of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Approved location” means a location that has been approved for stationary vending by the police department in accordance with this article.

“Approved removable stand” means structures and/or table, not including a pushcart, approved in accordance with this article by the police department for stationary vending that does not exceed four (4) feet in width, eight (8) feet in length (parallel to the curb), and eight (8) feet in height that has been approved for use by a licensed stationary vendor at an approved location.

“Food” means any products sold for human consumption, the sale of which is not prohibited by law.

“Pushcart” means a trailer, kiosk, or portable stand designed to be readily moveable from which goods or food are sold from a public sidewalk and not a public street, highway, or public parking space.

“Food service establishment” means a fixed or mobile restaurant, pushcart, coffee shop, cafeteria, short order café, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern bar, cocktail lounge, nightclub, drive-in, industrial caterer, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, or similar place where food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public, except as provided by Section 1107(k) of the Michigan Food Law of 2000, being MCL 289.1107(k).

“Foot vendor” means any person who sells goods, which he or she carries on his or her person, while walking about at all times on the sidewalks of the city except while making and completing a sale.

“Goods” means any merchandise, publications, wares, and shall included but not be limited to, fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, apparel, jewelry, cosmetics and beauty aids, health products, medicines,

household goods or furnishings.

“Licensee” means an applicant who has obtained a license pursuant to this ordinance to conduct a mobile vending operation on a public street, highway, or public parking place.

“Mobile food vending unit” means any motorized or non-motorized vehicle, trailer, kiosk or other device designed to be portable and not permanently attached to the ground from which not less than eighty (80%) percent of the products are food items to be vended, sold, served, displayed or offered for sale from a public street, highway, or public parking space.

“Mobile vending unit” means any motorized or non-motorized vehicle, trailer, kiosk, or other device designed to be portable and not permanently attached to the ground from which any goods, other than food are vended, sold, served, displayed or offered for sale from a public street, highway or public parking space.

“Person” means an individual, association, corporation, partnership, sole proprietorship, or other legal entity.

“Potentially hazardous food” means any food that has to be kept at certain temperatures to minimize the growth of any pathogenic microorganisms that may be present in the food or to prevent the formation of toxins in the food and includes food which consists in whole or in part of milk or dairy products, eggs, except those treated to eliminate Salmonella, meat, poultry, fish, shell fish, edible crustaceans, heat-treated plant food, specifically cooked rice, beans or vegetables, baked potatoes, sliced melons, raw sprouts, tofu and soy-protein foods, untreated garlic and oil mixtures.

“Sidewalk” means that portion of any dedicated public right-of-way throughout the city reserved primarily for pedestrian traffic, but does not include walkways located in parks or other publicly-owned properties which are not dedicated public rights-of-way.

“Stationary vendor” means any person who sells food or goods from a pushcart, or an approved removable stand at an approved location.

“Street” means that portion of any dedicated public right-of-way throughout the city reserved for vehicular traffic, including all curbs along such streets.

“Street vendor” means any person who sells food or goods from a vehicle on a street within the city, including persons operating as an industrial caterer or a mobile food service establishment.

“Vehicle” means a self-propelled motor vehicle used by a vendor designed for transit on streets and highways.

“Vendor” means:

1. Any person, traveling by foot or vehicle from street to street carrying and selling food or goods; or

2. Any person, who without traveling by foot or vehicle, exhibits, displays, and sells food or goods from a pushcart, or an approved removable stand at an approved location on a city sidewalk

### **874.02 LOCATION**

All vendors, after being approved by City Council, are allowed to vend city wide except for the following zoned areas: R-1(Single-Family Residential), R-UV (Urban Village), and R-IH (Historical Residential). \*Licensed vendors may be allowed at Block Club Party's.

### **874.03 LICENSE REQUIRED**

No person shall engage in the business of a street vendor in the City without first obtaining a license from Council, this includes vending on both public and private property.

### **874.04 LICENSE APPLICATIONS; INVESTIGATIONS**

An application for a **new license or to renew a license** required by section 874.03 shall be made in writing to Council upon forms furnished by the City and shall be filed with the City Clerk. The application shall give all such information as may be deemed necessary for the proper enforcement of this chapter including:

1. Vendor's Application
2. Copy of Driver's License/State ID
3. **Police Clearance/Background Check (at vendors expense)**
4. A brief description as to what will be sold
5. Food Handlers Certification, if applicable
6. A \$1000.00 Bond, if you are a Non-Food & Beverage Vendor
7. **Commercial General Liability Insurance that names the City of Highland Park as an additional insured in an amount not less than one million dollars (\$1,000,000.00). Additional insured language must agree to defend, indemnify, and hold harmless the City of Highland Park, its officials, officers, employees, and agents against liability, claims, causes of action, judgments or expenses, including reasonable attorney fees, resulting directly or indirectly from any act or omission of the license, its employees, its subcontractors and anyone for whose acts or omissions they may be held liable, arising out of the license's use or occupancy of the public street, highway or public parking space.**

### **874.05 GRANTING OF LICENSE; CONDITIONS**

If Council is satisfied that the applicant under Section 874.03 is a suitable person to engage in the business of a street vendor, and that the granting of such license will not be detrimental to the interests of the public, it shall grant the license, provided that:

- (a) The applicant is a citizen of the United States or has declared his or her intention of becoming a citizen of the United States;
- (b) The applicant has not been convicted of a felony.

- (c) The applicant's weights and measures have been sealed and approved according to the law; and
- (d) The applicant's fingerprints have been taken by the Police Department.

#### **874.06 LICENSE ISSUANCE; FEES**

When a license under this chapter has been granted, the City Clerk shall issue the same upon payment by the applicant to the City Treasurer of the following fees;

- (a) For a street vendor who uses a **food truck or food trailer**; a non-refundable fee of \$50.00 for a \$550.00 license
- (b) **For a street vendor who uses a handcart, pushcart, or kiosk; a non-refundable fee of \$25 for a \$225.00 license**

#### **874.07 CONTENTS OF LICENSE**

A street vendor's license shall contain the applicant's name **and may contain the following**:

1. The current business address and telephone number
2. Current government-issued identification document with photo of the applicant and any designated agent or person proposed to conduct mobile vending
3. The name under which the mobile vendor will be doing business
4. A brief description of the nature of the mobile vending operation and the items to be sold, including whether the licensee will be selling food products.
5. County health permit, if applicable
6. A description of all vehicles to be used in the mobile vending operation, including the Michigan license plate number(s) and a complete copy of the current Michigan vehicle registration(s) and proof of vehicle insurance for each proposed mobile vending unit or mobile food vending unit.
7. Whether the applicant has ever had a mobile vendor license revoked or suspended and the date and jurisdiction of the denial, suspension or revocation.

#### **874.08 DISPLAY OF LICENSE**

Any license issued to the street vendor shall be displayed on the mobile vending unit and shall be produced upon request of any law enforcement officer, city code inspector or county health inspector. In the case of a mobile food vendor, any required health inspection certificate shall also be displayed on the mobile vending unit. Any change in the information requested in the application shall be provided to the City Clerk within ten calendar days of any such change.

#### **874.09 REVOCATION OF LICENSE**

A license issued under this chapter may be revoked by City Council at anytime for a violation of a law of the State or an ordinance of the City or if City Council deems the licensee an unfit person to carry on the business of a street vendor.

#### **874.10 EXPIRATION OF LICENSE; HALF FEES**

- (a) A license issued under this chapter shall expire on April 30th of each year unless sooner revoked by Council for cause shown.
- (b) A license shall be issued under this chapter, after City Council approval, after May 1<sup>st</sup> of each year.
- (c) Such a license shall be issued for the last six months or less of the license year upon payment by the applicant of one-half the annual license fee.

#### **874.11 BOND REQUIRED: CONDITIONS.**

Before any license is issued for a non-food and beverage vendor, the applicant shall file with the City Clerk a bond running to the City in the sum of \$1,000.00 executed by the applicant, as principal, together with surety. The form of such bond shall be approved by the City Attorney and shall be conditioned upon the applicant's full compliance with the provisions of this chapter and the laws and statutes of the state regulating and concerning the sale of food, goods, wares, and merchandise.

#### **874.12 FOODSTUFFS**

- (a) All vehicles and receptacles used in the sale of foodstuffs shall be kept in a clean and sanitary condition at all times.
- (b) No licensee shall sell, offer or expose for sale or have in or about his or her stand, device, cart, wagon or other vehicle, fruit, vegetables or foodstuff unless the same is covered and free from exposure to animals, flies, insects, dust, dirt and the elements and from handling by persons, except such as shall be necessary in the vending and delivery to the purchaser. However, this section does not apply to fruits, nuts or other articles of food having a natural covering protecting them from infection or contamination and which must be removed for consumption.

#### **874.13 MISCELLANEOUS REGULATIONS**

No licensee under this chapter shall:

- (a) Use or carry about with him or her, or have in his or her possession, a scale or measure not sealed according to law;

- (b) Sell or offer for sale any article or commodity purporting to be in quantities of standard weight or measure, whether in original or other packages, unless the same is actually of the weight or measured purported;
- (c) Shout or call out his or her wares in a loud, boisterous or unseemly manner or to the disturbance of the citizens or dwellers in the City, or use a horn or bell or other noise-making device to call attention to his or her wares;
- (d) Sell or offer for sale any unsound, unripe or unwholesome food or defective, faulty, incomplete or deteriorated article of merchandise;
- (e) Leave a pushcart unattended while on public property for longer than five (5) minutes;
- (f) Connect a pushcart to a source of city electricity or water;
- (g) A pushcart shall not be left unattended while on a public property for longer than 5 minutes;
- (h) A licensee shall not connect a pushcart to a source of city electricity or water;
- (i) Alter public property or affix permanent fixtures of any kind shall not be installed on public property by the licenses unless authorized by City Council. A pushcart shall not be secured or affixed to any public structure unless authorized by City Council.

A licensee shall:

Keep all space around the vending location clean and must provide trash receptacles and garbage bags allowing for the disposal of trash in a lawful manner.

#### **874.14 OBSTRUCTING TRAFFIC.**

No person shall operate or maintain a stand, vehicle, store, or place of business on or near a highway in such a manner that the customers or traders with such person occupy or congregate within the limits of a street, lane, highway, or public place in the City.

No person shall be permitted to use the streets, alleys, lanes, or public places of the City for the services of customers or for the transaction of business, or to use any stand, store or other place of business in any manner that requires the customer, when transacting such business, to stand within the limits of the streets, highways, alleys or public places of the City.

#### **874.15 EXEMPTIONS.**

The provisions of this article shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, to bona fide sales of food and goods by samples for future delivery, to sales at trade shows or conventions, to sales by charitable organizations with solicitations for charitable purposes or to newsstands, and public markets.

#### **874.16 DISTANCE FROM OTHER BUSINESSES.**

It shall be unlawful for any vendor to engage in the sale of food or goods, or solicit any patronage, within one hundred (100) feet of the doorway of any established place of business that sells the same goods, unless the place of business provides a signed waiver of this requirement to the buildings and safety engineering department business license center. The one hundred (100) foot distance limitation shall be determined by measuring from either side of a point at the curb opposite the door or entrance on the building.

#### **874.17 DISPOSAL OF GOODS.**

- (a) It shall be unlawful for any vendor to throw or deposit any goods, merchandise, packaging, containers, fat, grease, paper or other solid waste upon any street or sidewalk or in any sewer in the city.
- (b) Items relating to the operation of the vending business shall not be left at the approved location when the approved removable stand is not in operation.
- (c) All vendors must provide a trash receptacle and/or garbage bags and must dispose of trash in a lawful manner. Failure to do so will result in the revocation of the license as spelled out in Section 874.09.

#### **874.18 FIRE PREVENTION CODE.**

All vendors must comply with all requirements of state and local law or rules applicable to them, including the provisions of the City of Highland Park Fire Prevention Code.

#### **874.19 HOURS OF OPERATION.**

Vendors shall only engage in vending operations between the hours of 8:00 am and 8:00 pm, Monday through Saturday or unless additional hours are authorized by City Council.

#### **874.20 ALLOWED GOODS.**

Coffee, beverages, and frankfurters, pre-packages snacks, condiments

Stationary vendors under this section shall be allowed to sell only the following items from an approved location:

1. Accessories, which shall be limited to handbags, sunglasses, umbrellas, and
2. wallets;
3. Balloons;
4. Craft items, including baskets, pottery, jewelry, leather, quilts, wood carving,
5. and needle crafts;
6. Coffee, beverages, and frankfurters, prepackaged snacks, condiments;
7. Confections and foods that are not potentially hazardous;

8. Ethnic apparel and clothing, which is limited to wearing apparel that is
9. particular to a specific nationality distinguished by custom, heritage, or language;
10. Flowers;
11. Fragrances;
12. Fresh Fruit; and
13. Hand-drawn portraits or caricatures created on the spot.

**874.21 SALES PROHIBITED NEAR SCHOOLS.**

(a). It shall be unlawful for any vendor to park, stand, or stop for the purpose of making any sale within five hundred (500) feet of any school property within the city.

(b) Vending locations for approved removable stands or pushcarts that are within three hundred (300) feet from any sports arena or stadium shall not be approved by the buildings and safety engineering department business license center without the written approval of the owner or management of such sports arena or stadium.

**874.99 PENALTIES**

(a). A person violating this chapter for the first time is responsible for a municipal civil infraction and is subject to payment of civil fine of not less than \$100, plus costs.

(b) A person violating this chapter for the second time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$150, plus costs.

(c) A person violating this chapter for the third time is responsible for a municipal civil infraction and is subject to payment of a civil fine of not less than \$200, plus costs. A person violating this chapter for the fourth or subsequent time is guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment for not more than 90 days, or to both such fine and imprisonment in the discretion of the court.

SECTION 2. Repeals. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 3. Savings Clause. Should any section, subdivision, sentence, clause, or phrase of this ordinance, be declared by the Courts to be invalid, the remaining provisions shall remain in effect.

SECTION 4. This Ordinance shall take effect immediately upon publication.

Approved by the City Council on: \_\_\_\_\_

Yeas \_\_\_\_\_ Nays \_\_\_\_\_

Certified by the City Clerk:

Signed: \_\_\_\_\_  
Brenda Green



