

CHAPTER 126: VENDORS, ITINERANT MERCHANTS AND PEDDLERS

SECTION

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Sec. 126.001 Trespasses prohibited

It shall be unlawful for any Person to commit a Trespass (as defined in this Chapter) within the corporate limits of the City upon either public or private property.

Sec. 126.005 Vendor's license required.

It shall be unlawful for any person, firm, or corporation to engage in the business of Hawker, Peddler, Itinerant Merchant, Vendor, Transient Vendor, or providing other transient retail sales or services within the corporate limits of the City, without first obtaining a license therefor as provided herein.

(A) Any Person so engaged shall not be relieved from complying with the provisions of this Chapter merely by reason of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

(B) For purposes of this Chapter, a Solicitor shall not be deemed a Vendor, so as to be required to have a license under this Chapter.

(C) Notwithstanding any provision of this Chapter to the contrary, no license shall be required pursuant to this Chapter for the sale of merchandise at an event held on City-owned property and sponsored by the City, if: (1) the sale is conducted by a person, firm, or corporation providing entertainment at the event for the benefit of the general public; and (2) the merchandise is directly related to the entertainment being provided. **(Ord. 77-09, J. 35, p. 34-308, passed 12/14/09)**

Sec. 126.010 Form of application for license.

(A) The form of application for all licenses issued under this Chapter shall be obtainable at the office of the City Clerk and when completed by the applicant, shall contain the following information: the name of the Person to whom the license is granted, the nature and kind of his business, the applicant's Illinois sales tax number, the length of time for which the right to do business in the City is desired, the number of vehicles, the kind of vehicles, a description thereof, together with license numbers as well as any other

means of identification.

(B) Each license issued under this Chapter shall be written, or printed, or partly written, or partly printed, and shall be signed by the City Manager and attested by the City Clerk under the seal of the City. Said license shall contain, among other things, the name of the Person to whom the license is granted, the nature and kind of his business, and the number and kind of vehicles, if any. Said license shall also be numbered and bear the date of the day, month and year of its issue, and the date of the day, month and year of its expiration.

(C) In addition to filing an application in the form contained in Subsection (A) above, an applicant for a license required under this Chapter shall verify his application and shall provide the following:

(1) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;

(2) A statement of the place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;

(3) A statement of the place or places, other than the permanent place of business of the applicant where applicant within the six (6) months next preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;

(4) A statement of nature, character, and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City of Highland Park; the invoice value of such goods, wares, and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample, by direct sale, or by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced; and where such goods or products are located at the time said application is filed, and where selling foodstuffs, a certificate issued by the Lake County Health Inspector; and

(5) If employed, the name and address of the employer, together with credentials from the Person for whom the applicant proposes to do business, establishing the exact relationship and authorizing the applicant to act as such representative.

Sec. 126.015 Insurance.

Before any license applied for pursuant to Subsection (A) of Section 126.010 shall be issued for engaging in the business of Hawker, Peddler, Itinerant Merchant, or Transient Vendor of merchandise, such applicant shall file with the City Clerk an insurance policy naming the City as an additional insured in the sum of One Million Dollars (\$1,000,000) and insuring the applicant against any and all liability including death, arising out of the vending and/or peddling of goods, wares, and merchandise. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

Sec. 126.020 Investigation and issuance of licenses.

(A) Upon receipt of such application for license as specified in Subsection (A) of Section 126.010 above, the City Clerk shall refer the original to the Chief of Police of the City, who shall cause such investigation of the applicant's business and moral character to be made as is necessary for the protection of the public good.

(1) If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the City Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.

(2) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval and return same to the City Clerk.

(B) Upon payment of the license fee prescribed below, the City Clerk shall issue a license to the applicant. Thereafter, all sales made pursuant to such license within the City of Highland Park shall be deemed made and consummated at the office of the Director of Economic Development of the City.

Sec. 126.025 License fees.

The fees which shall be charged by the City Clerk for a license to engage in the business of Hawker, Peddler, Itinerant Merchant, or Transient Vendor shall be the rate set forth in the Annual Fee Resolution. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93, Ord. 35-03, J. 29, p. 134, passed 5/27/03; **Ord. 77-09, J. 35, p. 304-308, passed 12/14/09**)

Sec. 126.030 Transfer.

No license shall be transferred without written consent from the City Clerk as evidenced by an endorsement on the face of the license by the City Clerk showing to whom the license is transferred and the date of the transfer.

Sec. 126.035 Limitations on vending and/or peddling.

(A) It is hereby declared to be unlawful and shall constitute a Nuisance for any person whether licensed under this Chapter or not, to go upon any premises and ring the door bell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in vending or peddling as herein defined, prior to 9:00 a.m. or after 9:00 p.m. of any weekday, or at any time on a Sunday or on a State or National Holiday.

(B) No licensee under this Chapter nor anyone in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public places of this City, or upon any private premises in the said City where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys, or parks or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

(C) Unless authorized by permit issued in accord with Subsection (D) of this Section of Article V of Chapter 118 of the Highland Park Code, no Itinerant Merchant, Vendor, or Peddler shall have any exclusive right to any location in the public streets or upon any other portion of real property owned by the City, nor be permitted a stationary location within the public streets or upon any other portion of real property owned by the City, nor be permitted to operate in any location where his operations might impede or inconvenience the public or constitute a violation of the zoning ordinances of the City. For the purpose of this Chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is such that the operation of an Itinerant Merchant, Vendor, or Peddler might impede or inconvenience the public. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(D) For the purpose of engaging in any business, no Person, other than officers, agents and employees of the City, shall use all or any portion of real property owned by the City to the exclusion of any other Person from such property without first having applied for and obtained a permit from the Director of Economic Development of the City in the manner set forth below:

(1) The form of the application for such permit shall be obtainable at the office of the City Clerk and shall contain, when completed by the applicant, the following information: the name, address and telephone number of the applicant, the location upon City-owned real property sought to be occupied by the applicant; the purpose for such occupation and the intended use of such location, and an acknowledgment of and statement that the applicant will abide by all applicable laws and regulations including the following additional regulations:

(a) Native landscaping, including trees, shrubs, plant matter, etc., shall not be cut, trimmed, mutilated, removed or destroyed;

(b) Weapons, firecrackers or similar devices shall not be brought onto City-owned real property;

(c) All vehicles must be confined to the designated roadways, drives, and parking lots in the area;

(d) Buildings, structures, signs or other property belonging to the City shall not be defaced, mutilated or destroyed;

(e) That the maintenance of the location, including but not limited to a thorough clean-up before leaving said location, shall be the sole responsibility of the applicant;

(f) No admission fees or charges shall be levied;

(g) The applicant shall not exclude any person from participation in, deny any person the benefits of, or otherwise subject any person to discrimination because of the person's race, color, or national origin during the use of the City-owned real property;

(h) The applicant shall have full responsibility for the observance of the regulations of the City;

(j) In granting any such permission herein authorized, the City does not assume any liability;

(k) Disregard of regulations will result in denial of further permits;
and

(l) Any damage to City property will be paid for and/or repaired by the applicant.

(2) The form of the permit shall contain the following: the name of the person or persons to whom the permit is granted, the purpose and duration thereof, and the location to which the permit applies.

(3) The City Manager or any of his agents shall cancel any permit when in his judgment it is considered in the best interest of the general public and/or the City to do so.

(4) In addition to the above requirements and conditions set forth in this Subsection (D), any person who desires to sell merchandise or food of any kind on Buhai Plaza must have a current Plaza Vendor's License and shall comply with the following:

(a) The sale of merchandise and food on Buhai Plaza shall be limited to the following items, the public health and necessity requiring such limitation: popcorn, nuts and nutmeats; baked goods; fresh fruit sold by the piece or individual serving, and not by weight; pretzels; frozen desserts; nonalcoholic beverages; cut flowers; balloons; and such other similar items as may be approved in writing by the City Manager, all of which shall be sold only from an approved Pushcart. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(b) No more than eight (8) Plaza Vendor's Licenses shall be issued for any one year, public convenience, health and the safety of pedestrian traffic on the Buhai Plaza requiring such limitation. The Coordinator of Economic Development may by rule restrict the use of any given Plaza Vendor's License issued hereunder to the sale of any of the specific items listed in paragraph (a) above. Such restrictions shall be based on consumer demand for a product and/or availability of a product and such restrictions, if any, shall be made available to applicants before the date for the filing of applications. Furthermore, no license issued pursuant to this Paragraph (4) shall be valid during any Special Event conducted upon the Buhai Plaza pursuant to permit therefor issued under Article V of Chapter 118 of this Code. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(c) Application for a Plaza Vendor's License must be filed on forms provided by the Coordinator of Economic Development and, in addition to the license fee required by Section 126.025, must be accompanied by a non-refundable application fee at the rate set forth in the Annual Fee Resolution. In the event the number of qualified applicants for such Plaza Vendor's Licenses exceeds the number of such licenses available, the Coordinator of Economic Development shall grant all such available licenses by the random selection of qualified applicants and shall cause the City to return the paid license

fees to unsuccessful applicants. Each such Plaza Vendor's License shall be effective upon issuance and shall expire on December 31 of the year in which it was issued. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93, Ord. 35-03, J. 29, p. 134, passed 5/27/03)

(d) Each licensee shall sell and offer for sale only the item or items specified in his current Plaza Vendor's License, and shall do so exclusively from a Pushcart situated at the location and during the hours determined by the Coordinator of Economic Development and stated on such license. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(e) If applicable, each licensee must have a permit issued by the Lake County Department of Health prior to commencing sales operations. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(E) Vendors and Peddlers are required to exhibit their licenses and permits at the request of any citizen.

Sec. 126.040 Inspections.

It shall be the duty of the Fire Prevention Bureau and the Director of Community Development of the City to inspect every premises located within the corporate limits of the City of Highland Park (including trucks, wagons, carts and other vehicles so located) and utilized in a business providing retail sales and/or services licensed under this Chapter as well as any other premises used as a base of operations for any other business of Hawker, Peddler, Itinerant Merchant, and/or Transient Vendor licensed under this Chapter, which inspections shall take place as often as necessary to insure compliance with this Chapter and all other ordinances relating to businesses licensed hereunder.

Sec. 126.045 Revocation of license.

Any license issued hereunder shall be revoked by the City Manager of the City if the holder of the license is convicted of a violation of any of the provisions of this Chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of such license under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the City Manager to the holder of the license in person or by certified U.S. Mail addressed to his or her residence as set forth in the application and upon the delivery of such notice in person or the deposit thereof in the U.S. Mail such license shall become null and void.

Sec. 126.050 Rules and definitions.

(A) The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- (1) The singular number includes the plural number, and the plural the singular.
- (2) The word "shall" is mandatory; the word "may" is permissive.
- (3) The masculine gender includes the feminine and neuter.

(B) Whenever in this Chapter the following words and phrases are used, they shall, for the purposes of this Chapter, have the meanings respectively ascribed to them in this

Section, except when the context otherwise indicates.

(1) City. The City of Highland Park, Lake County, Illinois.

(2) Buhai Plaza. The Robert M. Buhai Plaza located in Port Clinton Square in the City. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(3) Coordinator of Economic Development. The Coordinator of Economic Development of the City. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(4) Itinerant Merchant. Any Person, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a business of selling and delivering goods, wares, and merchandise within said City, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, tent, railroad box car, or boat, public room in hotels, lodging houses, apartments, ships, or any street, alley, or other place within the City, for the exhibition and sale of such goods, wares, and merchandise, either privately or at public auction provided that such definition shall not be construed to include any Person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only.

(5) Licensee. Any Person who is the holder of one or more licenses issued pursuant to this Chapter.

(6) Nuisance. That class of wrongs which arise from the unreasonable, unwarrantable, or unlawful use by a Person of his own property, either real or personal, or from his own improper, indecent, or unlawful personal conduct, working an obstruction of or injury to the right of another or of the public, and producing such material annoyance, inconvenience, discomfort, or hurt, that the law will presume resulting damages.

(7) Peddler. Any Person, whether a resident of the City of Highland Park or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or

offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Chapter shall be deemed a Peddler subject to the provisions of this Chapter. The word "Peddler" shall include the words "Hawker" and "Huckster".

(8) Person. A natural person or persons, partnership, firm, corporation, or organization of any kind.

(9) Plaza Vendor's License. A license issued pursuant to this Chapter for vending upon the Buhai Plaza. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(10) Public Place. Any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds, and buildings.

(11) Pushcart. A wheeled vehicle propelled solely by human power and constructed in accordance with a design approved by the Coordinator of Economic Development. (Ord. 66-93, J.20, p. 213-224, passed 12/13/93)

(12) Solicitor. Any individual, whether a resident of the City of Highland Park or not, traveling either by foot, wagon, automobile, truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided that such definition shall include any Person who, for himself, or for another Person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery as well as any person seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable non-profit association, organization, corporation, or project.

(13) Street, Alley, or Public Way. The entire width between boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.

(14) Transient Vendor or Vendor. Any Person, whether as owner, agent, consignee or employee, whether a resident of the City of Highland Park or not, who engages in a business of selling and delivering foods, wares, and merchandise within said City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building structure, motor vehicle, tent, railroad box car, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the City, for the exhibition and sale of such

goods, wares, and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only.

(15) Trespass. Any or all of the following acts by any Person shall be deemed a trespass in violation of the provisions of Section 126.001 of this Chapter:

(a) An entry upon the premises, or any part thereof, of another, including any public property in violation of a notice posted or exhibited at the main entrance to said premises or at any point of approach or entry in violation of any notice, warning, or protest given orally or in writing, by any owner or occupant thereof; or

(b) The pursuit of a course of conduct of action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to said premises or at any point of approach or entry, or in violation of any notice, warning, or protest given orally or in writing by any owner or occupant thereof; or

(c) Any use or attempted use (by anyone other than an officer, agent, or employee of the City) of any portion of real property owned by the City to the exclusion of any Person without first obtaining a permit therefor in compliance with Section 126.035 of this Chapter.

(d) A failure or refusal to depart from the premises of another in case of being requested, either orally or in writing, to leave by any owner or occupant thereof; or

(e) An entry into or upon any vehicle, aircraft or watercraft made without the consent of the Person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle, aircraft, or watercraft after being requested to leave by the Person having such right.

Sec. 126.055 Penalty.

(A) It is a misdemeanor for any Person to violate any of the provisions of this Chapter, unless such violations shall, by this Chapter or other law of the State of Illinois, be declared to be a felony.

(B) Every Person convicted of a misdemeanor for a violation of any provision of this Chapter for which another penalty is not provided shall be punished by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or by incarceration in the county jail for a term not to exceed six (6) months. A separate and distinct offense shall be regarded as committed each day upon which each such Person shall continue any such violation, or permit any such violation to exist after notification thereof.

(Note: Chapter 126 amended in toto by Ord. 8-76, J. 12, p. 15 passed 2/23/76; Chapter 126 amended in toto by Ord. 36-86, J. 16, p. 645-663, passed 9/8/86)