

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL SECTION 78-171 AND TO AMEND SECTIONS 78-210 AND 78-213 OF CHAPTER 78, PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO DEFINE “ICE CREAM VENDOR;” REQUIRE AN ICE CREAM VENDOR TO UNDERGO A BACKGROUND CHECK; PRESCRIBE A PENALTY FOR VIOLATIONS; AND REPEAL INCONSISTENT ORDINANCES.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 78-171 of Chapter 78 of the Code of Ordinances of the City of Rochester Hills, is hereby repealed in its entirety.

Section 2. Section 78-210 of Chapter 78 of the Code of Ordinances of the City of Rochester Hills, is hereby amended, as follows:

Sec. 78-210. Definitions.

- (a) *Mobile food vending* means vending, serving, or offering for sale food, beverages, and or related merchandise from a mobile food vending unit which meets the definition of a "food service establishment" under 2000 PA 92 (MCL 289.1107), and which may include ancillary sales of branded items consistent with the food, such as t-shirts bearing the name of the mobile food vendor, or other similar merchandise.
- (b) *Mobile food vending unit* means any motorized or non-motorized vehicle, cart, stand, trailer, or other device designed to be portable and not permanently attached or affixed to the ground from which food, beverages, or related merchandise is vended, served, or offered for sale.
- (c) *Mobile food vendor* means the individual, company, restaurant, organization, or entity operating a mobile food vending unit.
- (d) *Ice cream vendor means a mobile food vendor who operates a mobile food vending unit which provides as a majority of its offerings ice cream and related frozen food products and drinks.*

Section 3. Section 78-213 of Chapter 78 of the Code of Ordinances of the City of Rochester Hills, is hereby amended, as follows:

Sec. 78-213. Application requirements.

- (a) A mobile food vendor must file a written application for an annual mobile food vending unit license(s) with the building department upon a form to be furnished by the building department.
- (b) The application must contain all of the following:

- (1) The full name, complete address and telephone number of the applicant and whether the applicant is an individual, partnership, limited liability company, corporation or other form of business entity, and if a corporation, the state of incorporation or organization;
 - (2) The name under which the applicant will operate;
 - (3) The license plate, make, model and year of manufacture of the mobile food vending unit.
- (c) The application must be accompanied by the following:
- (1) The application fee;
 - (2) Copy of Oakland County food service license and, if applicable, Michigan Liquor Control Commission license, valid for the current year;
 - (4) Certificates of insurance evidencing insurance coverage for the applicant, its agents and employees, for the following coverages:
 - a. Worker's compensation and employer's liability insurance in accordance with state law;
 - b. Commercial general liability insurance on an "occurrence" basis with limits of liability not less than \$1,000,000.00 per occurrence;
 - c. Motor vehicle liability insurance including Michigan no-fault coverage for all vehicles used with limits of liability not less than \$1,000,000.00 per occurrence and aggregate combined single limit, personal injury, bodily injury and property damage;
 - d. Commercial general liability and motor vehicle liability insurance shall include an endorsement stating the city shall be an additional insured. Such insurance shall be primary to the additional insured and not contributing with other insurance available to the city; and
 - e. The certificates shall provide that the city shall receive 60 days advance written notice of cancellation, nonrenewal, reduction or material change in any such insurance coverage for any reason.
 - (5) A written declaration duly dated and signed by the applicant and given under oath or affirmation and under penalty of perjury that the information contained in and attached to the application is true and correct.
- (6) An ice cream vendor, in addition to the other requirements noted above, shall submit to a background check confirming the vendor has not been convicted of a felony or any serious misdemeanor.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be

severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of \$500.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, the day following its publication in the *Oakland Press* on _____.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2024.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I, LEANNE SCOTT, ROCHESTER HILLS CITY CLERK, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND COMPLETE COPY OF AN ORDINANCE, THE ORIGINAL OF WHICH IS ON FILE IN MY OFFICE, ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF HELD ON _____, 2024.

Leanne Scott, Clerk
City of Rochester Hills