ORDINANCE NO. 0092

AN ORDINANCE OF THE TOWN OF HORIZON CITY REGULATING PEDDLERS, TRANSIENT MERCHANTS, SOLICITORS, CANVASSERS, AND MOBILE FOOD VENDORS; ESTABLISHING LICENSING REQUIREMENTS, VIOLATIONS AND PROTECTIONS FOR HOMEOWNERS; REGULATING HANDBILLS AND SOLICITATION IN THE RIGHTS-OF-WAY; AND PROVIDING PENALTIES FOR VIOLATIONS; REPEALING AND REPLACING THE ORDINANCE DATED SEPTEMBER 12, 2000 ON THE SAME SUBJECT; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; REPEALER; SEVERABILITY; PROPER NOTICE AND HEARING; THE PENALTY BEING AS PROVIDED IN ARTICLE I, SECTION 16 OF THE ORDINANCE, CREATING A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED $500.00.

WHEREAS, the City Council is committed to protecting citizens from the harassment, annoyance, disruption of privacy, and questionable merchandise commonly associated with certain itinerant vendors and vagrant merchants; and

WHEREAS, the City Council finds that certain itinerant vendors constitute a public nuisance worthy of government regulation; and

WHEREAS, the City Council has the general statutory authority, pursuant to Texas Local Government Code Chapter 54, to adopt an ordinance, rule, or police regulation that is for the good government, peace, and order of the City, including the authority to license and regulate peddlers, transient merchants, and solicitors pursuant to its general police powers; and

WHEREAS, the City Council has authority under the Texas Health and Safety Code, to regulate food sales and storage; and

WHEREAS, the City wishes to limit the operation of mobile food vendors, such that this the adoption of this Ordinance shall serve as a temporary moratorium on the full implementation of mobile food vending within the City, pending further study of all of the needed requirements to implement a full and complete regulation of such vendors who would sell food items other than pre-packaged food; and

WHEREAS, the Supreme Court of the United States has consistently recognized the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when solicitation of money is involved, and

WHEREAS, an important part of the freedom enjoyed by all citizens and residents of the

United States is the right to speak freely, to express ideas that may be unpopular, and to engage others in debate without government interference, and

WHEREAS, it is the responsibility of all units of government to balance these competing interests in a manner consistent with the Constitution of the United States and of Texas, while attempting to minimize fraud, prevent crime, and protect the privacy of our citizens; and

WHEREAS, the City Council seeks to keep the public rights-of-way free of clutter and the visual distractions that often accompany certain merchants soliciting customers along streets and roadways; and

WHEREAS, the City Council seeks to assist private property owners who do not wish to engage with vendors, solicitors and canvassers on their property and have posted signs giving such notice.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HORIZON CITY, TEXAS, that:

ARTICLE I. ENACTMENT

Pursuant to Sections 51.001 and 51.012 of the Texas Local Government Code, the City Council of the Town of Horizon City hereby enacts and adopts this Ordinance to repeal and replace Ordinance No. 0092, as set forth under Article II of this Ordinance.

Section 1. Definitions. As used in this ordinance the following words have the meaning indicated:

A. General

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Words and phrases that are not defined in this Ordinance but are defined in other ordinances of the City shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

B. Specific

"Business day" means the weekdays excluding City holidays.

"Canvasser" is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of: (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser

accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

"Mobile Food Vendor" is a vendor selling or serving any food products other than pre-packaged foods to the general public from a motorized vehicle or licensed trailer that are intended for immediate consumption or are usually consumed immediately upon sale.

"Peddler" is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service, including but not limited to taking orders for the sale of merchandise. A "peddler" does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor."

"Permit Official" is the building official or other designee of the Mayor.

"Pre-packaged foods" are food and drink items that are bottled, canned, cartoned, securely bagged or securely wrapped, whether packed in a food establishment or a food processing plant, and does not include any foods handled outside of packaging or re-packaged by the vendor at or near the site of sale.

"Pushcart" is a non-motorized vehicle, cart or other non-motorized conveyance, limited to serving pre-packaged foods maintained at proper temperatures.

"Solicitor" is a person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of: (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.

"Special Event" shall mean an event not exceeding five consecutive days in length that provides a community-wide activity which is temporary in nature, and includes festivals, parades, cultural and recreational events and events commemorating holidays, which is located at or held on a site that is either (1) not zoned as commercial or industrial, or (2) on property not used for a commercial or industrial purpose such as a park, public recreational facility, church or school.

"Transient Merchant" is a person who engages in a temporary business of selling and delivering goods, pre-packaged foods, wares or merchandise within the City, who in furtherance of such purpose uses or occupies any vehicle, trailer, pushcart, or other place in the City for the exhibition and retail sale of such goods. Transient merchant shall not include the temporary sale of goods by a permanent merchant on private property adjacent to the merchant's permanent place of business if allowed pursuant to other ordinances of the Town of Horizon City.

"Vendor" shall include a person or entity meeting the definition of a "peddler", "mobile food

vendor" or a "transient merchant".

Section 2. Exceptions.
A. The provisions of this Ordinance in Article I, Sections 3 through 11 shall not apply to:

1. A federal, state or local government employee or a public utility employee in the performance of his/her duty for his/her employer.
2. Any person under eighteen (18) years of age, when engaged in the business of being a vendor under the direct supervision or authority of any school or recognized charitable organization or religious organization.
3. Any person who is the duly authorized representative or agent of any church, charitable or labor organization, education or fraternal organization, or of any political group who is seeking funds or membership or contacting members or electors, or who is engaging in occasional sales for the benefit of such organization.
4. Farmers or their employees who produce and sell farm products in their natural state in compliance with all regulations that may be established by other ordinances of the Town of Horizon City, and such a person shall not be considered to be a mobile food vendor even if the farm products are sold from a vehicle or licensed trailer.
5. Vendors of pre-packaged food products distributing or selling such products not intended or usually consumed immediately upon sale distributed which are sold to regular customers on established routes.
6. Garage sales governed by other ordinances of the Town of Horizon City.

B. The licensing requirements of this ordinance shall not apply to any person other than a mobile food vendor engaging in business solely at a special event or an event that is sponsored or recognized by a governmental entity or non-profit organization, provided that all transactions are conducted solely within the confines of such sponsored or recognized event and that the rules and regulations of such sponsored or recognized event are observed.

C. This Ordinance is not to be construed as prohibiting or limiting the distribution or sale of religious publications, newspapers, handbills or other written or printed matter sold or distributed for the purpose of disseminating information or news on sidewalks or in any public place.

D. This Ordinance is not to be construed as requiring the licensing of vendors engaged solely in interstate commerce.

Section 3. License Required for Vendors and Solicitors; Exceptions.
A. No person shall act as a vendor or solicitor within the city without first obtaining a Vendor License in accordance with this ordinance.
B. A canvasser is not required to have a Vendor License.
C. Any person exempt from the licensing requirements of this Ordinance by virtue of State of Texas or federal law shall not be required to obtain a license.
D. A person or entity who is a license holder under Chapter 1702, Occupations Code, or an employee of a license holder, shall not be required to obtain a permit or post a bond under this Ordinance, provided that the person, entity or employee has provided the information required by the regulations under 37 Texas Administrative Code, section 35.47, as amended, to the

Horizon City Police Department and complies with all other requirements of such regulations and this Ordinance prior to beginning any door-to-door security alarm sales.
E. All current, valid licenses issued under Ordinance No. 0092, prior to the effective date of this Ordinance, shall remain valid through February 29, 2016, and the former Ordinance shall remain in effect through February 29, 2016 for such purpose. Any person holding such a license may, on or before February 29, 2016, apply to obtain a new license of the same or similar nature under this Ordinance and no fee shall be charged for such an application.

Section 4. Fee.
A. The fee for the issuance of each Vendor License shall be:
1. For a vendor, a fee of $40.00 for a 120 day license or $85.00 for a one year license.
2. For a mobile food vendor, a fee of $60.00 for a 120 day license or $85.00 for a one year license.
3. For a solicitor (including a commercial solicitor advertising an event, activity, good or service for purchase at a location away from the residence): no fee.

B. The license shall be effective for 90 days from the date of issuance, if issued on this basis, or until the anniversary date of the following year, if issued annually.

C. No fee for the issuance of a license shall be imposed for a vendor who is already licensed by the state, such as an insurance salesman.

D. Fees are non-refundable.

Section 5 Bond.
A. Vendors requiring cash deposits or payment for future delivery, or who require a contract of agreement to finance the sale of goods or services for future delivery or for services to be performed in the future, shall, before issuance of the license, file with the Permit Official, a Surety Bond in the amount of $1,000 issued by a surety company authorized to do business in Texas, conditioned that the vendor shall comply fully with all ordinances and laws regulating the vendor's operation, and guaranteeing to any resident of the city that all money paid will be accounted for and applied according to the representation of the vendor. The bond shall be issued and maintained for the time period from the issuance of the license through six months after the date of the expiration of the license. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety shall be acceptable to the City as to solvency, and if the City becomes dissatisfied that the surety is solvent, a new bond may be required. The Surety shall be required to notify the City within thirty days of any termination or cancellation of the bond or of any claims paid which reduce the liability under the bond.

Section 6. Insurance.
A. All vendors shall provide proof of general liability insurance including products liability in the amount of $300,000 per occurrence and $100,000 for property damage. Such insurance may be issued to an organization or entity that employs or contracts for services with one or more persons who are applicants or licensees under this Ordinance, provided that the proof is submitted to the City that all persons licensed or requesting to be licensed are covered by such

insurance policy. A certificate of insurance shall be delivered to the Permit Official prior to the issuance of the license. The City and its employees shall be named as additional insureds against any liabilities that may arise in connection with the operation of the vendor.

Section 7. Application for Vendor License.
A. Any individual person (applicant) may apply for one or more vendor or solicitor licenses by completing an application form from the Permit Official during regular office hours. An organization may apply for a single solicitor license that covers up to five persons named in the application.

B. The vendor or solicitor license shall be issued promptly after application as provided in Section 9, unless it is determined that:

1. The applicant or a person named in an application has been convicted of a felony or a misdemeanor involving moral turpitude within the past five years, has been on probation or parole for a felony or misdemeanor involving moral turpitude within the past one year, or is currently registered as a sex offender or has been so registered within the past one year.
2. The applicant or a person named in an application has been convicted of a violation of a peddler, vendor or similar ordinance in another municipality in the state of Texas or had a peddler, vendor or similar license revoked by another municipality in the state of Texas within the past one year,
3. The applicant or a person named in an application has made any statement in the application that is false, misleading or fraudulent, unless the applicant can demonstrate that such statement was made as the result of excusable neglect.
4. The applicant fails to provide a bond and/or insurance in the required form and amounts.
5. An applicant for a mobile food vendor license fails to identify a location for operations where such operations are allowed under or in compliance with this Ordinance or the Zoning Ordinance of the Town of Horizon City.

C. In the event that the Permit Official determines that the license may not be issued, the Permit Official will provide notice and an opportunity for an appeal in the same manner as for the revocation of an issued license under Section 10.

Section 8. Contents of Application. The applicant shall provide the following information:
A. The name and physical description of the applicant.
B. The permanent and (if any) local address of the applicant.
C. The date and place of birth for the applicant.
D. A brief description of the proposed activity related to this license and whether the application is for a peddler or solicitor license. (Copies of literature to be distributed may be substituted for this description at the option of the applicant).
E. Whether or not applicant has been convicted of the commission of a felony or a misdemeanor of moral turpitude in a court of competent jurisdiction within five years of the date of application and if the applicant has been on probation or parole as a result of a felony or a misdemeanor of moral turpitude within one year of the date of the application.
F. Whether or not applicant is or ever has been a registered sex offender, and the date of the

initial registration and time period for registration.
G. The motor vehicle make, model, year, color, and state license plate number of any vehicle which will be used by applicant, and a copy of the proof of financial responsibility covering those vehicles.
H. The place or places were the applicant has peddled, vended or canvassed within the three months preceding the date of the application, and the address(es) from which such business was conducted in these municipalities.
I. If a license is requested for a vendor:

1. The name and permanent address of the business offering the event, activity, goods or service (i.e., the vendor's principal address) or the business, entity or organization that employs or contracts with the applicant to provide the event, activity, goods or service.
2. A statement as to how sales will be conducted, such as whether all products will be delivered immediately upon receipt of payment, or whether any sale will require a cash deposit or payment for future delivery, or require a contract of agreement to finance the sale of goods or services for future delivery or for services to be performed in the future.
3. A copy of the principal's sales tax license as issued by the state of Texas, provided that no copy of a license shall be required of any business which appears on the city's annual report of Sales Tax payees as provided by the Texas Comptroller's office.
4. The location where books and records are kept of sales which occur within the city and which are available for city inspection to determine that all city sales taxes have been paid.

J. If a license is requested for a solicitor:

1. The name and permanent address of the organization, person, or group for whom donations (or proceeds) are accepted.
2. The web address for this organization, person, or group (or other address) where residents having subsequent questions can go for more information.

K. If a license is requested for a mobile food vendor:

1. The name and permanent address of the business offering the event, activity, goods or service (i.e., the vendor's principal address) or the business, entity or organization that employs or contracts with the applicant to provide the event, activity, goods or service.
2. A copy of the principal's sales tax license as issued by the state of Texas, provided that no copy of a license shall be required of any business which appears on the city's annual report of Sales Tax payees as provided by the Texas Comptroller's office.
3. The location where books and records are kept of sales which occur within the city and which are available for city inspection to determine that all city sales taxes have been paid.
4. The name and location of the Central Preparation Facility for food preparation.
5. A copy of a valid, current license issued by the State of Texas to the vendor for the operation of a mobile food establishment. A valid, comparable license issued by the city where the vendor primarily operates may be substituted when such city regulates mobile food establishments in the same or similar manner as the State of Texas.
6. If the mobile food vendor will operate at a special event or governmental event, information as to the dates, location and identification of such event.
7. If the use will be on private property in accordance with and when permitted under the Zoning Ordinance:
    a. proof of compliance with all requirements of the Zoning ordinance for the operation of the mobile food vendor at such location.
    b. the location of restroom facilities (other than facilities inside of a residence) that the

vendor and customers will be allowed to use, and proof that the owner of these facilities has authorized their use.

c. the days and hours of availability of such restroom facilities.

L. If a license is requested for a solicitor and is submitted by an organization, a list of all persons who will be authorized to solicit on behalf of the organization and the information required in subsections A, B and C for each person.

M. Any other information the applicant wishes to provide, perhaps including copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.

N. In the event that the City establishes a process for taking the photograph of the applicant or licensees in conjunction with the application, the applicant or all persons listed in an application shall complete that process. The City may also require applicant or all persons listed in an application to sign complete and sign an affidavit relating to any criminal convictions or requirements for sex offender registration applicable to the applicant or person.

Section 9. Investigation. During the time following the application for one or more vendor licenses and its issuance, the City shall investigate as to the truth and accuracy of the information contained in the application. If the City has not completed this investigation within three business days, the license will nonetheless be issued or deemed as issued, subject, however, to administrative revocation upon completion of the investigation.

Section 10. Revocation of License.

A. Grounds. Any license issued hereunder may be revoked if the license holder or registrant is convicted of a violation of any provisions of this Ordinance, has changed the requirements for a sale such that a bond is required for that type of sale but fails to post such bond, solicits for a purpose other than that set out in the application upon which the license was issued without notifying the City and amending the application, fails to comply with any of the special requirements for sales of food products, has knowingly made a false material statement in the application, or otherwise becomes disqualified for the issuance of a license under the terms of this Ordinance.

B. Notice. If the Permit Official denies (or upon completion of an investigation or at any other time revokes) the vendor license, he shall immediately convey the decision to the applicant orally, or electronically if the applicant has provided an email address, and shall within two business days hours after the denial prepare a written report of the reason for the denial which shall be made available to the applicant upon completion.

C. Appeal; hearing. The applicant or licensee (appellant) shall have ten (10) days from the date of receiving the Official's report regarding the revocation or denial in which to file notice of his appeal to the city council from the order denying or revoking the license. The City Council shall review the report of the Permit Official and the appellant's rebuttal and may allow the appellant to make an oral presentation or submit additional rebuttal. The City Council shall make its review and make a ruling on the appeal within a reasonable period of time after the appeal has been filed. The City Council shall sustain, reverse or modify the action of the Official and shall direct city staff to notify the appellant of the decision in writing, and if so ordered, to issue a license. The decision of the City Council is final.

D. Appeal; stay. In the event of the filing of an appeal from a revocation issued under the provisions of this Ordinance, then, until such appeal has been determined by the City Council, such revocation order shall be stayed.

Section 11. Display of Vendor License.
A. Each vendor license shall be carried by the vendor at all times when the vendor is engaged in the particular activity for which the license was issued, and shall, upon the request of customers or city employees, exhibit the license and allow inspections of it.
B. The license for a mobile food vendor shall be displayed by the vendor at all times when the vendor is engaged in the particular activity for which the license was issued.

Section 12. Distribution of Handbills and Commercial Flyers. In addition to the other regulations contained herein, a solicitor or canvasser leaving handbills or commercial flyers about the community shall observe the following regulations:
A. No handbill or flyer shall be left at, or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way. The police, code compliance employees and other employees as designated by the Mayor or his designee are authorized to remove any handbill or flyer found within the right-of-way.
B. No handbill or flyer shall be left at, or attached to any privately owned property in a manner that causes damage to such privately owned property.
C. Any person observed distributing handbills or flyers shall be required to identify himself/herself to the police (either by producing a vendor license or other form of identification). This is for the purpose of knowing the likely identity of the perpetrator if the city receives a complaint of damage caused to private property during the distribution of handbills or flyers.

Section 13. General Prohibitions. No vendor, solicitor or canvasser shall:
A. Enter upon any private property where the property has clearly posted in the front yard a sign visible from the right of way (public or private) indicating a prohibition against peddling, soliciting and/or canvassing. Such sign need not exceed one square foot in size and may contain words such as "no soliciting" or "no solicitors" in letters of at least two inches in height. (The phrase "no soliciting" or "no solicitors" shall also prohibit vendors, and canvassers)
B. Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" and which is clearly visible to the vendor, solicitor or canvasser.
C. Use or attempt to use any entrance other than the front or main entrance to the dwelling, or step from the sidewalk or indicated walkway (where one exists) leading from the right-of-way to the front or main entrance, except by express invitation of the resident or occupant of the property.

1. Remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
2. Enter upon the property of another except between the hours of 8:00 a.m. and 8:00 p.m. except that the above prohibitions shall not apply when the vendor, solicitor, or canvassers has an express invitation from the resident or occupant of a dwelling allowing him/her to enter upon any posted property.

D. Solicit for a purpose other than that set out in the application upon which the license was issued.
E. Shout, whistle, blow a horn, ring a bell or use any sound devices, including but not limited to

any loud speaking, radio or amplifying system which violate the provisions in the Horizon City Noise Ordinance, nor play or broadcast any amplified music or sound as part of their operations between the hours of 10:00 p.m. and 8:00 a.m.

Section 14. Special requirements for sales of food products.

A. Food vendors. Any vendor who sells any type of food or drink product intended to be for immediate consumption by the customer or which is usually consumed immediately upon sale, as is permitted under this Ordinance, shall:

1. provide a trash receptacle for use by customers, and
2. maintain the sales area or the area around the vehicle or pushcart clear of litter and debris at all times.

B. Mobile food vendors.

1. Mobile food vendors are not permitted operation within the Town of Horizon City by this Ordinance, except that registered mobile food vendors may engage in operations when the mobile food vendor is parked at an event or upon private property pursuant to a contract or other authorization by the organizer or presenter of the special event or the private property owner or their authorized agent and is:

a. at an event that is sponsored or recognized by a governmental entity, provided that all operations are conducted solely within the confines of such sponsored or recognized event and that the rules and regulations of such sponsored or recognized event are observed;

b. at a special event as defined above, provided that all operations are conducted solely within the confines of such sponsored or recognized event and that the rules and regulations of such sponsored or recognized event are observed; or

c. upon private property in accordance with and when permitted under the Zoning Ordinance of the Town of Horizon City, Ordinance No. 0102, as amended.

2. Prior to engaging in operations as allowed under this section and under the Zoning Ordinance of the Town of Horizon City that are not part of the listed operations on the licensee's application, a mobile food vendor shall provide notice to the City at least 72 hours in advance of the start of operations of such additional operations, to include all information regarding such operations as is required on an application as required under Article I, Section 8 K of this ordinance

3. Such allowed mobile food vendors shall comply with all regulations that may be established by other ordinances of the Town of Horizon City, all state statutes and regulations relating to the preparation, holding and sale of food products, and the requirements of the Emergency Services District #1 for all fire and explosion safety standards. Such standards shall include but not be limited to holding required food handling permits, complying with food temperature and holding requirements, meeting all requirements for hand-washing and cleanliness of the vehicle, containers, counters and utensils, and holding all solid and liquid waste in appropriate receptacles. For such purposes, the Town of Horizon City adopts by reference the provisions of the current rules or rules as amended by The Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in the City.

4. Water provided or used by the allowed mobile food vendor shall not come from a temporary connection to potable water.

5. Electricity used by the allowed mobile food vendor shall be only from a generator or an electrical outlet via a portable cord that conforms to the City's Electric Code and as permitted by the provider.
6. A mobile food vendor operating on private property in accordance with and when permitted under the Zoning Ordinance may operate only during the hours from 6:00 a.m. to 12:00 a.m. (midnight) and is further prohibited from operating during on any day or during the hours when the restroom facilities identified in the licensee's application are not open and available for use.

Section 15. Solicitation in public right-of-way.
A. Solicitation for any purpose in the public right-of-way shall be conducted only during the hours of daylight, specifically one-half (1/2) hour after sunrise and one-half (1/2) hour before sunset.
B. It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway unless the solicitor has been granted authorization pursuant to § 552.0071 of Chapter 552 of the Texas Transportation Code. The restriction on solicitation in the traveled portion of the roadway does not apply to public residential streets.
C. It shall be unlawful for a solicitor at any time to enter or remain in the traveled portion of the roadway of residential streets so that their presence impedes the flow of traffic.
D. It shall be unlawful for a person to solicit in the public right-of-way that is within one thousand (1,000) feet of any public or private school between the hours of 7:30 a.m. and 4:30 p.m. on days when such school is in session. The measurement of the distance shall be made from the nearest property line of the public or private school.

Section 16. Enforcement; Violation and Penalty.

A. The permit official and his designees, to include code enforcement officers and employees assigned to perform code compliance duties are authorized to administer and enforce the provisions of this ordinance. The employees in the City of El Paso Department of Public Health who are assigned to perform enforcement duties relating to the public health services provided by the City of El Paso pursuant to an Interlocal Governmental Agreement between the Town of Horizon City and the City of El Paso are authorized to enforce the provisions of this ordinance relating to the sales of food products and any other matter relating to public health.

B. Any person violating any part of this ordinance or failing to observe any provision of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding five hundred ($500.00) dollars. Every day the violation continues shall be deemed as a separate offense.

ARTICLE II. REPEAL OF PRIOR ORDINANCE

That Ordinance no. 0092 along with any amendments thereto, as previously adopted by the City Council on September 12, 2000, are hereby repealed and this ordinance shall replace said ordinance in its entirety. Provided however, the provisions of Ordinance No. 0092, as previously

adopted on September 12, 2000 shall be continued in effect through February 29, 2016 for the purposes identified in Article I, Section 3 E.

ARTICLE III. FINDINGS OF FACT

That this ordinance was duly enacted with all requisites and formalities incident thereto the enactment of ordinance, and such is evidenced by the signatures below; and further that the foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

ARTICLE IV. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the effect of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

ARTICLE V. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE VI. PROPER NOTICE AND MEETING

It is officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52, Texas Local Government Code.

PASSED AND APPROVED this the 10th day of November 2015, by a vote of 7 (ayes) to 0 (nays) to 0 (abstentions) of the Town Council of Horizon City, Texas.

(signatures appear on the following page)

Town of Horizon City

By: _____
Walter L. Miller, Mayor

ATTEST:

By: _____
Elvia Schuller, City Clerk

APPROVED AS TO FORM:

_____
Elaine S. Hengen, Assistant City Attorney

First Reading: 10/13/2015
Second Reading: 11/10/2015