

**ORDINANCE NO. 81 (as amended)**

**AN ORDINANCE REGULATING THE DISPLAY, SALE AND DISTRIBUTION OF GOODS, MERCHANDISE AND SERVICES ON OR AFFECTING THE USE OF PUBLIC PROPERTY IN THE CITY OF UNIVERSITY HEIGHTS, IOWA**

Section 1. The purpose of this ordinance is to regulate the display, sale and distribution of goods, merchandise and services, and certificates, coupons, and vouchers for such goods, merchandise and services in the City of University Heights, in such a manner that the use of public property including parks, streets, alleys, and sidewalks will not be adversely affected.

Section 2. No goods, merchandise or services or certificates, coupons, or vouchers for such goods, merchandise or services shall be displayed, solicited, sold, or distributed on any public property in the City of University Heights, Iowa, which property shall include all parks, streets, alleys, and sidewalks. Notwithstanding the prohibition set forth in this Section, goods and merchandise may be displayed and sold at a Farmers Market on any public or private property, if the specific location and time of such Farmers Market is approved by prior resolution of the City Council.

Section 3. The display, sale and distribution of any goods, merchandise or services or certificates, coupons or vouchers for such goods, merchandise or services on commercial or business property must be conducted in such a manner that such display or sales will not interfere with the use of public property which shall include all parks, streets, alleys, and sidewalks.

Section 4. No goods or merchandise, or certificates, coupons or vouchers for goods or merchandise of any nature shall be displayed, sold or distributed from private property in a residential zone regardless of the consent or approval of the property owners, other than home occupations allowed by the zoning ordinance which shall not be prohibited. Notwithstanding the prohibition set forth in this Section, goods and merchandise may be displayed and sold at a Farmers Market on any public or private property, if the specific location and time of such Farmers Market is approved by prior resolution of the City Council.

Section 5. Given the differing use, character, and adaptability of the property known locally as 1300 Melrose Avenue and legally described as set forth in Exhibit "A", including but not limited

to its parking facilities and overall lot size, this ordinance shall not apply to the property known locally as 1300 Melrose Avenue and legally described as set forth in Exhibit "A" during the hours of 7:00 a.m. to 8:00 p.m. on any day on which the University of Iowa plays football games in Kinnick Stadium so long as the profits from the sale or display are used by or donated to a non-profit entity which is exempt from federal income taxation pursuant to §501(C)(3) of the Internal Revenue Code, and where the entire proceeds from the sale or display of goods or merchandise are expended for any of the following purposes:

- a. Educational;
- b. Religious; or
- c. Charitable.

A charitable act is an act done out of goodwill, benevolence, and a desire to add to or to improve the good of humankind in general or any class or portion of humankind, with no pecuniary profit inuring to the person performing the service or giving the gift.

Section 6. PENALTIES. Any person violating the provisions of this Ordinance shall be guilty of a simple misdemeanor punishable by a fine of two hundred and fifty dollars (\$250.00). The sentence imposed under this Section shall not be suspended or deferred by the court, nor shall judgment be deferred, notwithstanding the provisions of Ch. 907 of the Code of Iowa, as amended, or any other provision of statute.

Section 7. If any section, provision or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Passed by the City Council on the 13<sup>th</sup> day of July, 1982, and approved this 13<sup>th</sup> day of July, 1982.

\_\_\_\_\_/S/\_\_\_\_\_  
Mayor

Attest: \_\_\_\_/S/\_\_\_\_\_  
City Clerk

\* The original ordinance is on file with the University Heights City Attorney.

Ordinance No. 161, modifying Sections 1, 2, 3, 4, and 5, and adding Section 6, was passed and approved the 14<sup>th</sup> day of August, 2007 and published in the Iowa City Press Citizen the 7<sup>th</sup> day of September, 2007. The amendment broadens the language to include the distribution of goods, merchandise and services and also adds certificates, coupons, and vouchers for such goods, merchandise and services. The amendment grants an exception to the ordinance for 1300 Melrose Avenue from 7:00 a.m. to 8:00 p.m. during University of Iowa football games. The amendment also adds Section 6 which states any violation may be cited as a municipal infraction punishable by a civil penalty of \$250.00 for a first offense and \$500 for a repeat offense.

Ordinance No. 176 modifying Section 6 was passed and approved the 10<sup>th</sup> day of November, 2009 and published in the Iowa City Press-Citizen the 12<sup>th</sup> day of December 2009. The amendment modifies the penalties for violating any provision of this Ordinance as follows: Violation will be cited as a simple misdemeanor punishable by a fine of \$250.00, which shall not be suspended or deferred by the court, nor shall judgment be deferred, notwithstanding the provisions of Iowa Code Chapter 907.

Ordinance No. 185, amending Section 2 and Section 6, was passed and approved the 14<sup>th</sup> day of May, 2013 and published in the Iowa City Press-Citizen the 22<sup>nd</sup> day of July, 2014. The amendment allows goods and merchandise to be sold at Farmers Markets that are approved by resolution of the City Council.