

Introduced:  
Adopted:  
Effective:

**CITY OF CHARLOTTE**

**ORDINANCE NO. \_\_\_\_**

AN ORDINANCE TO AMEND CHAPTER 46: SOLICITORS AND CANVASSERS, BY RENAMING THE CHAPTER, BY REMOVING ANY REFERENCES TO CANVASSERS BY AMENDING SECTION 4.6-1 AND DELETING SECTIONS 4.6-6 AND 4.6-7, AND BY ADDING ARTICLE II, SECTION 46-51 THROUGH 46-70 TO PROVIDE FOR FOOD TRUCKS, KNOWN AS SPECIAL TRANSITORY FOOD UNITS, WITHIN THE CITY OF CHARLOTTE.

Councilmember \_\_\_\_\_ moved the following:

THE CITY OF CHARLOTTE ORDAINS:

Chapter 46 - Solicitors and Canvassers - of the Code of the City of Charlotte is hereby amended as follows:

1. Chapter 46: SOLICITORS AND CANVASSERS, is hereby renamed PEDDLERS AND TRANSITORY BUSINESSES.
2. Sections 46-1 through 46-5 of Chapter 46: SOLICITORS AND CANVASSERS, of the Code of the City of Charlotte is amended to read as follows:

**ARTICLE I, Peddlers**

§ 46-1 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**PEDDLER.** Any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor 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 the sale of goods, wares and merchandise, books, or magazines, personal property of any nature whatsoever for

immediate or 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. This definition includes any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodginghouse, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for immediate or future delivery.

(1993 Code, § 46-1)

Cross reference:

Definitions and rules of construction generally, see § 1-2

#### § 46-2 PEDDLER'S LICENSE – REQUIRED; POLICE CHIEF CERTIFICATION.

(A) No person shall engage in the business of a peddler within the city without first obtaining a license therefor. No such license shall be granted except upon certification of the Chief of Police or his designee.

(B) In all cases where the certification of the Police Chief is required prior to the issuance of any license by the City Clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character.

(C) The phrase GOOD MORAL CHARACTER, when used in this chapter for the purpose of licensing, shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner.

(D) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that at the current time he has the ability and is likely to serve the public in a fair, honest and open manner, that he is rehabilitated or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks to be licensed.

(E) The following criminal records shall not be used, examined or requested by the city in a determination of good moral character:

- (1) Records of an arrest not followed by a conviction;
- (2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction;
- (3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest and open manner;
- (4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

(F) When a person is found to be unqualified for a license because of a lack of good moral character or similar criteria, the person shall be furnished by the City Clerk with a statement to that effect. The statement shall contain a complete record of the evidence upon which the determination was based. The person shall be entitled, as of right, to a rehearing on the issue before the Council if he has relevant evidence not previously considered regarding his qualifications.

(1993 Code, § 46-2)

Statutory reference:

Similar provisions, see M.C.L.A. §§ 338.41 et seq.

§ 46-3 SAME – APPLICATION.

The peddler's license application shall furnish the following information:

- (1) Name and description of the applicant;
- (2) Permanent home address and telephone number and full local address of the applicant;
- (3) Driver's license, automobile make and automobile license number;
- (4) A brief description of the nature of the business and the goods to be sold;
- (5) The length of time for which the right to do business is desired;
- (6) 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 the application is filed and the proposed method of delivery;
- (7) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be 2 inches by 2 inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

(1993 Code, § 46-3)

§ 46-4 SAME – FEES.

The fees for a peddler's license shall be \$5 per day, \$10 per week, \$25 per month, or \$50 per year. This fee may be changed by resolution of the City Council from time to time. No fee for a peddler's license shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, he may apply to the City Manager for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within 6 months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and gross volume or estimated gross volume of business and such other information as the City Manager may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The City Manager shall then conduct an investigation, comparing the applicant's business with other businesses of like nature, and shall make findings of fact from which he shall determine whether the fee fixed for the solicitor's license is unfair, unreasonable or discriminatory as to the applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed. In fixing the fee to be charged, the City Manager shall have the power to base the fee upon a percentage of gross sales or any other method which will ensure that the fee assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the fee as prescribed. Should the City Manager determine the gross sales measure of the fee to be the fair basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the city or at the end of each 3 month period, a sworn statement of the gross sales and pay the amount of fee therefor, provided that no additional fee during any 1 license year shall be required after the licensee shall have paid an amount equal to the annual license fee.

(1993 Code, § 46-4)

§ 46-5 RESIDENTIAL PEDDLING PROHIBITED.

(A) It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether peddlers shall be, or shall not be, invited to their respective residences.

(B) Notice of the refusal of invitation to peddlers, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

"NO PEDDLERS INVITED"

(C) The card so exhibited shall constitute sufficient notice to any peddler of the determination by the occupant of the residence of the information contained thereon.

(1993 Code, § 46-5)

3. Sections 46-6 and 46-7 of Chapter 46: SOLICITORS AND CANVASSERS, of the Code of the City of Charlotte are hereby deleted and of no further force and effect.

4. Chapter 46: SOLICITORS AND CANVASSERS, of the Code of the City of Charlotte is hereby amended by adding Article II, Special Transitory Food Units, Sections 46-51 through 46-70, which sections shall read as follows:

## **ARTICLE II, Special Transitory Food Units**

### **§46-51. Short title.**

This article shall be known as the City of Charlotte Special Transitory Food Unit Ordinance.

### **§46-52. Purpose**

It is the purpose of this article to regulate the operation of Special Transitory Food Units, to provide licensing requirements for same; and to protect the public health, safety and welfare.

### **§46-53. Validity and Severability.**

The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

### **§46-54. Repealer Clause.**

All ordinances or parts of ordinances in conflict therewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

### **§46-55. Effective Date.**

This Ordinance shall be effective twenty (20) days from the date of final publication.

### **§46-56. Definitions.**

*Administrator* means the City Manager, Zoning Administrator or official designee.

*Operate* shall mean the actual hours when the Special Transitory Food Unit is open for business, not including the hours to set up and take down.

*Operator* shall mean any person engaged in the business of sales from a Special Transitory Food Unit; if more than one individual is operating a motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable, then operator shall mean all individuals operating such motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable.

*Operating a Special Transitory Food Unit* means serving or offering for sale food and/or beverages from a Special Transitory Food Unit.

*Special Transitory Food Unit* shall mean any motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable and not permanently attached to the ground from which food is served or offered for sale.

**§46-57. Permitted Locations.**

Operating a Special Transitory Food Unit shall be permitted on private property in zoning districts B-2, B-3 and I-2; as well as at churches, schools and public parks, regardless of zoning designation. In no circumstances shall a Special Transitory Food Unit be permitted to operate within a street Right-of-Way. Special Transitory Food Units shall be permitted to operate in other areas of the city during special events and festivals as authorized by City Council Resolution, provided that operation of a Special Transitory Food Unit, with permission of property owners at 100 West Lawrence Avenue (Courthouse Square), 120 West Lovett Street (Beach Market), and 1025 South Cochran Avenue (Eaton County Fairgrounds) be allowed without a City Council Resolution.

**§46-58. Permitted Hours.**

Operating a Special Transitory Food Unit shall be only be permitted between the hours of 7:00 a.m. and 11 p.m. Operation outside these hours may be permitted during special events and festivals as authorized by City Council Resolution.

**§46-59. Permit Required.**

No person shall operate a Special Transitory Food Unit without a permit issued by the Administrator. The serving or sales of food and/or other consumables shall not be allowed unless the operation meets the definition of Special Transitory Food Unit herein and complies with the requirements of this ordinance.

**§46-60. Exceptions to Permit Requirement.**

The following operations are exempt from the permit requirement and the corresponding fee:

(1) Operating a Special Transitory Food Unit as part of a special event or sidewalk sale organized and operated by an established restaurant or business for a period of time not to exceed three (3) days.

(2) Operating a Special Transitory Food Unit for a period of three (3) days or less on church and school properties conducted in conjunction with a special event at the church or school. The exemption shall only apply to three (3) special events or fewer per year.

(3) Veterans who have been issued a permit by the County Clerk pursuant to Public Act 359 of 1921.

(4) Special Transitory Food Units being operated by permission of City Council through a City Council Resolution, as well as Special Transitory Food Units being operated with the permission of property owners at 100 West Lawrence Avenue (Courthouse Square), 120 West Lovett Street (Beach Market), and 1025 South Cochran Avenue (Eaton County Fairgrounds).

**§46-61. Duration; Number; Local Preference; Non-Transferability.**

Permits may be issued by the Administrator for a monthly period of thirty days (30) or a seasonal period of one hundred twenty (120) days from the date of issuance. Monthly permits shall not be issued to the same operator for consecutive months. Seasonal permits may be renewed by an operator in good standing.

At any one time, there may be only three (3) permits in effect which allow an operator to engage in transitory sales from a food unit. The Administrator shall not issue more than two (2) monthly, or two (2) seasonal permits at any one time, and no combination of monthly and seasonal permits that total more than three (3) shall be in effect at any one time.

When the number of applicants exceeds the number of available permits, the Administrator shall issue permits to Charlotte residents and business owners before considering other applicants. Any permit issued under this article is non-transferrable between operators, properties, and Special Transitory Food Units.

**§46-62. Permit Application.**

A person or individual desiring to operate a Special Transitory Food Unit shall submit a permit application to the Administrator's Office. No application shall be processed until it is complete. The application shall contain the following information:

- (1) The applicant's name, address, phone number, and email.
- (2) The address and/or parcel number of the property where the Special Transitory Food Unit will be located.
- (3) The name, address, phone number, driver's license or photo identification and email of the party responsible for operating the Special Transitory Food Unit, if different from the applicant. If more than one individual is employed at the Special Transitory Food Unit, the names, addresses, phone numbers, driver's permit or photo identification, and emails for all employees shall be provided.
- (4) If applicable, the license plate number of the Special Transitory Food Unit; as well as a copy of the registration and proof of insurance.
- (5) The proposed days and hours of operation and estimated staffing level.
- (6) Written permission from the owner of the property on which the Special Transitory Food Unit will operate.
- (7) A sketch depicting the location of the special transitory food Unit , existing buildings, parking, streets, driveways, and sidewalks.
- (8) Copies of any license, permit, or authorization required by any other ordinance, statute, or administrative rule. It shall be the responsibility of the operator to know and understand what other licenses, permits or authorizations may be required by other ordinances, statutes or administrative rules outside the immediate jurisdiction of the City of Charlotte.
- (9) Copy of the menu, or list of primary food items planned for sale.

**§46-63. Processing of Permit Application.**

A Special Transitory Food Unit permit shall be issued or denied within ten (10) business days from the day the application was originally filed. If the application is denied, the Administrator shall notify the applicant in writing of the specific reason(s) why the application was denied.

**§46-64. Enforcement.**

It shall be the responsibility of the Administrator to enforce the terms of this article.

**§46-65. Fees.**

An application for a permit under this ordinance shall be accompanied by a fee in the amount established in the **schedule of fees adopted by the City of Charlotte City Council**. There shall be no proration of fees. Fees are non-refundable once a permit is issued by the Administrator.

**§46-66. Requirements.**

Persons operating a Special Transitory Food Unit shall comply with the following requirements:

- (1) Special Transitory Food Units shall not be located within any street right of way; and shall adhere to the requirements of Charlotte City Code section 82-463 Corner Clearance.
- (2) Signage related to Special Transitory Food Units shall be in compliance with the regulations of the City of Charlotte Sign Ordinance. No signage shall be displayed or erected outside of the immediate vicinity of the Special Transitory Food Unit.
- (3) Special Transitory Food Units shall be removed entirely from the site every day, no overnight storage of any kind shall be permitted. The operator shall remove all litter and debris attributable to the operation on at least a daily basis.
- (4) Outdoor seating, including but not limited to tables, chairs, benches, or stand up counters shall be subject to the approval of the Administrator.
- (5) An operator shall not extend power cables, extension cords or similar devices across any public street, sidewalk or pathway.
- (6) Special Transitory Food Units shall be completely self-contained, and are prohibited from using water from public hydrants and disposing of liquid wastes, including but not limited to grease, into storm drains or sanitary sewers.
- (7) The Special Transitory Food Unit shall not be located so as to block a public sidewalk or pathway, designated fire lane, or otherwise impede pedestrian or vehicular movement.
- (8) A Special Transitory Food Unit shall not make or cause to be made any excessive noise. The operation of all Special Transitory Food Units shall be in compliance with the City of Charlotte noise ordinance, including generators.
- (9) Operators who conduct business on city owned properties shall provide a copy of their Certificate of General Liability Insurance which names City of Charlotte as an additionally insured.
- (10) The Special Transitory Food Unit permit from City of Charlotte, state sales tax permit and license from the county health department shall be displayed at all times by the operator in a conspicuous location.
- (11) Special Transitory Food Units shall be inspected by the Administrator before issuance of a permit. The Administrator's inspection shall ensure that a permitted Special Transitory Food Units are:

- (a) In safe operating condition as required by the State of Michigan Motor Vehicle Code;
- (b) Clean; free of food waste, debris and grime;
- (c) Free of graffiti, excessive rust, and broken or neglected fixtures;

(12) Special Transitory Food Units shall offer a substantially unique menu. The Administrator shall not issue a permit for a Special Transitory Food Unit that offers the same primary food item as another contemporary permit holder, i.e. hot dogs, donuts, tacos, barbecue, ice cream, coffee, or similar, recognizing that many Special Transitory Food Units may have extensive menus and some duplication of offering is expected. This determination shall be made by the Administrator.

#### **§46-67. Sales Tax Permit.**

If an operator does not have a state sales tax permit, the Administrator shall send a notification to the registration section of the Michigan Department of Treasury at the time the Administrator issues the permit.

#### **§46-68. Revocation.**

The Administrator shall revoke the permit of any operator of a Special Transitory Food Unit who ceases to meet the requirements of this article; who commits fraud, misrepresentation or makes a

false statement on their application or in the course of operating the Special Transitory Food Unit; who is convicted of a felony; or who creates a public nuisance or constitutes a danger to the public health, safety, and welfare.

It is the intention of the City that permits issued under this ordinance shall be used. Therefore, the Administrator shall revoke the permit of any operator who does not make use of the permit within ten (10) days following issuance.

Immediately upon such revocation the permit shall become null and void and the Administrator shall provide written notice to the permit holder and property owner by certified mail to the address provided on the application. No person whose Special Transitory Food Unit permit has been revoked shall be eligible to receive another permit within the City of Charlotte for two (2) years from the date of permit revocation.

#### **§46-69. Appeals.**

Any person aggrieved by an order, requirement, decision or determination of the Administrator as it relates to this article may appeal to the City of Charlotte City Council in accordance with the following procedures:

(1) A written statement containing the specific reason(s) for the appeal must be filed with the City Clerk within fifteen (15) calendar days of the date of the decision sought to be appealed.

(2) The City of Charlotte City Council shall hold a hearing on the appeal, which shall be open to public comment and shall include an opportunity for the appealing party to present their appeal.

(3) Notice of the time and place for consideration of an appeal shall be sent by the City Clerk by mail or personal delivery not less than ten (10) calendar days prior to the date of the hearing to the parties making the appeal.

(4) The City of Charlotte City Council shall issue its decision on the appeal within a reasonable time. In its determination of the appeal, the City of Charlotte City Council may take, but is not limited to, any of the following actions:

(a) Affirm the decision of the Administrator with or without modification and with or without such conditions as the Board deems necessary or appropriate to further the intent and purposes of this ordinance.

(b) Reverse the decision of the Administrator and state its reasons for reversal.

(c) Make any other decision, determination, order, or requirement that the Administrator could have made with respect to the subject matter of the appeal.

(5) The City Clerk shall notify the parties making the request in writing of the City of Charlotte City Council decision regarding the appeal.

#### **§46-70. Sunset.**

The ordinance codified herein will sunset after one year.

This ordinance shall become effective 20 days after adoption and that the above ordinance be passed to a second reading.



Second, \_\_\_\_\_ ( ) Yeas. ( ) Nays.

Dated:

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Timothy M. Lewis, Mayor

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Ginger Terpstra, Clerk