

Sec. 29-1. - Organizations excluded from article. This chapter shall not apply to solicitation for charitable, civic, religious, patriotic or governmental purposes by persons who serve without compensation or remuneration.

Sec. 29-2. - Solicitors and peddlers.

(a)

Purpose. The purpose of this section shall be to protect the health, safety and general welfare of the public by regulating the business activities of solicitors and peddlers.

(b)

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

(1)

Residence means and includes every separate living or dwelling unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

(2)

Peddlers, whether referred to as peddlers or hawkers, means and includes any person who travels by any means from place to place or door-to-door of residences with an inventory of goods, wares, or merchandise who sells or offers to sell the same at retail and who delivers the identical goods, wares, or merchandise.

(3)

Solicitors, whether referred to as solicitors or canvassers, means and includes any person who travels by any means from place to place or door-to-door of residences for the purpose of taking or attempting to take orders for goods, wares, merchandise or services, whether for present or future delivery or performance.

(4)

Business means the business carried on by any person who is a peddler or solicitor as defined in this section.

(c)

License required. It shall be unlawful for any person to engage in business as a peddler or solicitor within the Town limits without having first completed and filed an application and obtained a license from the Town of Mint Hill Police Department. Applicants shall be at least eighteen (18) years of age. The license shall be in the form of an "identification badge" that shall be displayed by the applicant in accordance with subsection (k) below.

(d)

Term and renewal of license. A license issued pursuant to this section shall:

(1)

Expire ninety (90) days after the issuance thereof.

(2)

Be renewable for additional ninety (90) day periods upon application submitted to the Chief of Police no later than fourteen (14) days prior to the expiration of the preceding term, accompanied by a fee as provided in the Town's schedule of rates and fees, and duly approved by the Chief of Police or his designee.

(e)

Application. An application pursuant to this section shall be made on a form supplied by the Chief of Police or his designee and shall contain or be accompanied by the following:

(1)

The name, address, and telephone number of the applicant and, if a corporation, the name and registered agent of the corporation and the address of the registered office of the corporation as filed with the Secretary of State.

(2)

The name, address, and telephone number of the individual having management or supervisory authority over the applicant's business, if applicable, during the time that it is proposed to be carried on in the Town and credentials authorizing the applicant to carry on business as an agent or representative of the principal.

(3)

A physical description of the applicant.

(4)

A state-issued driver's license or identification card bearing a photograph and the date of birth of the applicant.

(5)

If a vehicle is to be used, a complete description of the vehicle including make, model, color, and license number.

(6)

- (7) A description of the goods or services to be sold or offered for sale.
 - (8) Evidence that the applicant has complied with any relevant state or local business license requirements.
 - (9) The time period or periods during which business is proposed to be carried on in the Town.
 - (10) A fee as provided in the Town's schedule of rates and fees to cover the costs of processing and investigating the application and issuing the license.
 - (11) A complete statement by the applicant of any conviction for a felony or any crime involving fraud, deceit, or the receiving or possessing of stolen goods.
 - (12) A statement by the applicant consenting to a criminal background check.
- (f) Any other information that the Chief of Police deems necessary to determine the character and ability of the applicant to comply with the requirements of this section.

Procedure and standards for issuance. Prior to the issuance of a license under this section, a criminal background check may be required which may include a search of local and state criminal records to determine if the applicant has a history of criminal convictions or crimes by use of the Division of Criminal Information Network (DCI). Any such background check shall be completed at the earliest practical time not to exceed fourteen (14) days from date of submittal of a completed application. As part of any such background check, the applicant shall be photographed and fingerprinted by the Mint Hill Police Department. In determining the acceptability of an application, the Chief of Police or his designee may consider any factors presented in the application or in any staff report relating to the application concerning the past record and ability of the applicant to perform the conditions of this section in a manner which serves the public interest. Tangible evidence that the applicant has done one or more of the following shall constitute valid reasons for disapproval of an application:

- (1) Has been convicted of a felony or any crime involving fraud, deceit, the receiving or possessing of stolen goods, or moral turpitude.
- (2) Has made willful misstatements or fraud in the application or the application is incomplete.
- (3) Has committed prior violations of ordinances relating to peddlers, solicitors, vendors and the like.
- (4) Any other tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare.

Prior to the denial of a license based upon criminal history record information received from the DCI, the Town shall verify the existence of the record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the criminal information and identification section for verification that the criminal history record belongs to that individual.

- (g) *Denial of license.* An application may be denied if it is found that granting the license would not be in the public interest. An applicant denied a license under this section shall receive a written statement outlining the grounds on which the denial is based. The applicant then may appeal the denial of the license to the Town manager within fifteen (15) days after the date of the written denial. In response to the appeal, the Town manager may take such action as (s)he shall deem to be necessary. The findings and determination of the Town manager shall be final.

- (h) *Prohibited conduct.* No peddler or solicitor shall engage in the business of peddling or soliciting except between the hours of (i) 9:00 a.m. and (ii) the earlier of (a) 9:00 p.m. or (b) sunset unless invited by the an adult resident of the Residence to be at the Residence before or after said time, or as otherwise further limited by the terms of the license.

- (i) *Revocation of license.* The Chief of Police or his designee may revoke a license issued pursuant to this section if he finds that the licensee has:

- (1) Willfully misrepresented or provided false information in the license application.
- (2) Been convicted of a felony or any crime involving fraud, deceit, the receiving or possessing of stolen property, or moral turpitude.
- (3)

- (4) Been convicted of any offense or engaged in any activity that would be grounds for denial of issuance of the license.
- (5) Failed to comply with any terms or conditions of the license.
- (6) Conducted the business licensed in an unlawful way or in such a way as to constitute a hazard to the health, safety, morals, or general welfare of the public.
- (j) Has failed to comply with any requirement of this section.
- (i) *Notice and hearing.* Before revocation of a license, the Chief of Police or his designee shall notify the licensee of his intent to revoke the license and the reasons therefor and shall afford the licensee a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Chief of Police shall notify the license holder in writing of his decision and the reasons therefor. A decision of the Chief of Police to revoke a license may be appealed to the Town manager in accordance with the provisions of subsection (g).
- (k)

Display and possession of license and identification. Any person doing business as a peddler or solicitor shall have a license issued pursuant to this section with him at all times (s)he engages in the business for which the license is held. Each license issued under the provisions of this article shall be carried at all times by the licensee when he or she is engaged in business allowed under the permit. It shall be unlawful for such licensee to fail or refuse to exhibit such license when requested to do so by a police officer. Upon request of any customer, state or local revenue agent, or law enforcement agent or officer, a peddler or solicitor shall provide a valid driver's license, a special identification card issued under G.S. 20-37.7, a military identification, or a passport bearing a physical description of the person named, reasonably describing the peddler or solicitor. If the peddler or solicitor is a corporation, it shall, upon request of any customer, state or local revenue agent, or law enforcement agent or officer, give the name and registered agent of the corporation and the address of the registered office of the corporation, as filed with the secretary of state.

- (l) *Penalties.* Any person found to be in violation of the requirements of this section shall be guilty of a misdemeanor, punishable as provided in G.S. [14-4](#)

Sec. 29-3. - Sale of merchandise on streets, sidewalks and parking lots.

- (a) *Permits generally.* Unless having obtained a permit issued pursuant to this section, no person shall peddle, sell, barter, trade or auction merchandise of any description on any street, sidewalk, pedestrian way or public parking lot in the Town.
 - (1) *Special occasion permits.* The Town manager or his designee may issue nonexclusive special occasion permits not to exceed eight (8) hours in duration for purposes which are directly related to an occasion such as a parade, festival or promotional activity occurring in the Town. Any such permit issued by the Town manager must specify the effective date, the hours of duration, the merchandise to be sold, the name of the person selling the merchandise and the name of the person owning the merchandise for sale, if different, along with each such person's address and telephone number.
 - (2) *Street vendor permits.* The Town manager or his designee may issue nonexclusive permits for the sale of merchandise by a vendor from a cart in the area of the Town known as the downtown municipal service district, provided that such merchandise shall be limited to hot dogs, sausages, bagels, pastries, candy, prepackaged sandwiches, chips, cookies, crackers, biscuits, popcorn, nuts, pretzels, other snack foods, ice products, ice cream, milk products, frozen yogurt, hot and cold beverages (containing no alcohol) and other related food and beverage items. Street vendor permits may be issued as provided in this chapter and as further authorized by the Town's schedule of rates and fees. A copy of the Town schedule of rates and fees is located in the office of the Town clerk and is incorporated by reference herein.
- (b) *Definitions.* The following definitions shall apply in this section:
 - (1) *Cart.* Any portable vending device, pushcart or any other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the department of motor vehicles, which is used for displaying, storing or transporting merchandise offered for sale by a vendor and which does not exceed four (4)

feet in width, six (6) feet in length, and five (5) feet in height (excluding any canopy or cover).

(2)

Sidewalk or pedestrian way. An improved walk or passageway intended for use by pedestrians and located between the curbline of the street, or between the lateral lines of a roadway if there is no curb, and the adjacent property line.

(3)

Vending business. The business of selling or offering for sale merchandise from a cart on or along a sidewalk or pedestrian way.

(4)

Vendor. The person engaged in the selling or offering for sale of merchandise from a cart on or along a sidewalk or pedestrian way.

(c)

Application. Any person desiring to operate a vending business within the downtown the Town shall prepare and file an application with the Town manager or his designee which shall contain the following information:

(1)

The name, address, and telephone number of the proposed vendor, and the name, address, and telephone number of the owner (if different from the vendor) of the cart to be used in the operation of the vending business.

(2)

The type of food and/or beverage to be sold and/or served from the cart.

(3)

The proposed sidewalk or pedestrian way location(s) of the cart(s) for which the permit is sought.

(4)

The proposed days and hours of operation of the vending business.

(5)

The number of carts proposed to be operated by the vendor, and a description and photograph or drawing of the cart(s) proposed to be used.

(6)

The location and description of off-street cart storage facilities.

(7)

The methods and routes for transporting the cart(s) to and from the sidewalk or pedestrian way location(s) and the storage facilities identified above.

(8)

The names, addresses and percentage of stock owned by each shareholder in any corporate vendor or cart owner, the names, addresses and percentage interest of each partner in any partnership vendor or cart owner, and the names, addresses and percentage interest of each member in any limited liability company vendor or cart owner.

(9)

Evidence of adequate insurance or other form of security to hold the Town, its officers, agents, employees and taxpayers, harmless from any and all claims arising out of the operation of the vending business, in such amounts and forms as shall comply with subsection (d)(2) below as determined by the Town manager in consultation with the Town attorney.

(10)

An indemnity agreement, approved by the Town attorney, whereby the vendor and cart owner, if different, agree to indemnify and hold harmless the Town, its officers, agents, employees and taxpayers, from and against any and all claims arising out of the operation of the vending business.

(11)

Such additional information as may be required by the Town manager or his designee to determine compliance with this section and/or to demonstrate that the applicant has the financial ability to satisfy the requirements hereof.

(12)

A fee as provided in the Town's schedule of rates and fees to cover the costs of processing and investigating the application and issuing the permit.

(d)

Issuance of permit. No permit for the operation of a vending business may be issued unless the application is complete and unless the following requirements are met:

(1)

A certificate of inspection or compliance as required by any applicable health regulations and evidence of compliance with the fire code, all of which must be filed with the Town clerk before any merchandise sales are made from any cart.

(2)

Proof of an insurance policy, issued by an insurance company licensed to do business in the state and acceptable to the Town manager, protecting the vendor, cart owner (if different), and the Town, its officers, agents, employees and taxpayers, from and against any and all claims for damages to property and bodily injury, including death, which may arise from operation of the vending business, which must be filed with the Town clerk before any merchandise sales are made from any cart and annually thereafter. Such policy shall be a general liability policy naming the vendor as insured in an amount not less than five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) aggregate combined single limit for bodily injury, personal injury and property damage. The policy shall specifically provide that the insurer shall provide written notice to the Town at least thirty (30) days prior to cancellation, termination or modification of any of the coverage provisions.

In determining the acceptability of an application, the Town manager or his designee also may consider any factors presented in the application or in any staff report relating to the application concerning the past record and ability of the applicant to perform the conditions of this section in a manner which serves the public interest.

(e)

Denial of permit. A permit may be denied if it is found that the granting of the permit would not be in the public interest. Such would be the finding if, for example, the application fails to include all of the information required by subsection (c), if the requirements of subsection (d) are not met, or if the applicant proposes operation of a vending business at a location prohibited by subsection (f).

Any applicant denied a permit to operate a vending business shall receive a written statement outlining the grounds on which the denial is based. The applicant then may appeal the denial of the permit to the Town Board of Commissioners within fifteen (15) days after the date of the written denial. In response to the appeal, the Town Board of Commissioners may take such action as it shall deem to be necessary. The findings and determination of the Town Board of Commissioners shall be final.

(f)

Permitted locations. No cart location shall be permitted except as authorized by the Town's schedule of rates and fees. Additionally, no cart location shall be permitted:

(1)

Within fifty (50) feet of the principal public entrance of any food service business not owned by the vendor which sells substantially the same merchandise proposed to be sold by the vendor, except by written permission of the food service business whose entrance is affected.

(2)

At any location which does not provide a clear passageway for pedestrians of at least four (4) feet in width.

(3)

Within ten (10) feet of an entrance to any building, except by written permission of the business whose entrance is affected.

(4)

Within fifty (50) feet of any driveway entrance to any police or fire station or within twenty-five (25) feet of any other driveway.

(5)

At any location where it would obstruct either pedestrian traffic at crosswalks or sight clearance at intersections.

(6)

Within twenty-five (25) feet of any bus stop sign.

(g)

Prohibited conduct. No vendor shall do any of the following:

(1)

Vend on any street, sidewalk or pedestrian way beyond the location approved in the permit or in any area where vending is otherwise prohibited.

(2)

Vend between 11:00 p.m. and 6:00 a.m. or at any hours not allowed by permit.

(3)

Leave any cart unattended.

(4)

Store, park or leave any cart overnight on any street, sidewalk or pedestrian way.

(5)

Sell merchandise for immediate consumption unless there is a convenient litter receptacle available for customer use.

(6)

- (7) Leave any location without first removing and disposal of all trash or refuse remaining from sales made by the vendor.
 - (8) Allow any items related to operation of the vending business to be placed anywhere other than in, on, or under the cart.
 - (9) Set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of the cart.
 - (10) Solicit or conduct business with persons in motor vehicles.
 - (11) Sell anything other than that merchandise for which a permit has been issued.
 - (12) Sound or permit the sounding of any device which produces a loud or raucous noise, or use or operate any loud speaker, public address system, radio, sound amplifier, or similar device which attracts the attention of the public.
 - (13) Vend without the insurance coverage specified in subsection (d)(2) above.
 - (14) Allow the cart or any other item relating to the operation of the vending business to lean against or otherwise be supported in any manner by any building or other structure without the owner's permission.
 - (15) Permit advertising on any cart except such as to identify the name or type of merchandise being sold, the name of the vendor, and the applicable prices.
- (h) Vend or operate in any manner inconsistent with the terms of a valid permit.

Permit revocation. The Town manager or his designee may revoke a permit issued pursuant to this section if he finds that the vendor has:

- (1) Deliberately misrepresented or provided false information in the permit application.
- (2) Violated any applicable provision of the Town Code or any county health department regulations.
- (3) Operated the vending business in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare, specifically including the failure to keep the sidewalk, pedestrian way and surrounding areas clean and free of refuse.
- (4) Failed to maintain any health, business or other permit or license required by law for the operation of the vending business.
- (5) Failed to use the permit fully in accordance with its terms within ninety (90) days after issuance or within fifteen (15) days after notice of nonuse during the permit term.
- (6) Failed to qualify for a privilege license or a determination that either of the requirements set forth in subsection (d) above no longer is met.
- (7) By reason of background, financial condition, or conditions relating to the vending business, failed to render acceptable service to the public.
- (8) Failed to comply with any terms or conditions of the permit.

Before revocation of a permit, the Town manager or his designee shall notify the vendor of his intent to revoke the permit and the reasons therefor and shall afford the vendor a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town manager shall notify the permit holder in writing of his decision and the reasons therefor. A decision of the Town manager to revoke a permit may be appealed to the Town Board of Commissioners in accordance with the provisions of subsection (e).

(i)

Reservation of rights. The Town reserves the right to require any vending business permitted under this section to cease part or all of its vending business within any location or locations in order to allow for construction, maintenance or repair of any street, sidewalk, utility or public building by the Town, its agents or employees, or by any other governmental entity or public utility, and to allow for use of the street, sidewalk or pedestrian way in connection with parades, civic festivals and other events of a temporary nature as permitted by the Town. In addition to those events described in

subsection (h) above, the Town also reserves the right to revoke any permit if the Town manager or his designee determines that no permit should be granted to any applicant for a particular location within the downtown municipal service district.

(i)

Term, transfer, modification and renewal. Nonexclusive permits issued in accordance with the provisions of this section shall:

- (1) Be issued for the period beginning July 1, and expiring June 30 of each year.
- (2) Be in addition to any applicable annual privilege license required pursuant to applicable law..
- (3) Be subject to modification at any time deemed necessary by the Town manager or his designee for protection of the public interest.
- (4) Be renewable for additional one-year periods upon application submitted to the Town manager no later than April 30 preceding the June 30 expiration date and duly approved by the Town manager or his designee for another one-year term.
- (5) Be nontransferable in any manner. Sale of a cumulative majority of stock in a corporate vendor or cart owner, if different, and sale of a cumulative majority interest in a partnership or limited liability company vendor or cart owner, if different, shall be deemed a transfer of permit which is prohibited.

Sec. 29-4. - Peddlers refusing to leave. 

Any peddler or hawker of goods or merchandise who enters upon premises owned or leased by another and willfully refuses to leave such premises after having been notified by the owner or possessor of such premises, or his agent, to leave the same, shall be guilty of a misdemeanor.