

Ordinance No. 2016- 14

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE I, OF THE TOWN OF MONCK'S CORNER CODE OF ORDINANCES, BY ADDING SECTION 10-9, MOBILE FOOD VENDING, AND SECTION 10-10, TRANSIENT MERCHANTS, AND TO AMEND CHAPTER 10, ARTICLE II, SECTION 10-27, DEFINITIONS, BY STRIKING THE LANGUAGE CONTAINED THEREIN AND REPLACED WITH THE FOLLOWING.

WHEREAS, the Town of Moncks Corner desires to properly regulate and define mobile food vending, and transient merchants, and

WHEREAS, staff has received a number of inquiries concerning the operation and existence of food trucks within the corporate limits of the Town of Moncks Corner, but are not directly addressed in the Town Code, and

WHEREAS, the Mayor and Town Council find it to be in the best interest of the Town to revise and update the business license ordinance as recommended by staff and include the revisions herein.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Moncks Corner, South Carolina, to amend Chapter 10, Article I, of the Town of Moncks Corner Code of Ordinances, by adding Section 10-9, Mobile Food Vending, and Section 10-10, Transient Merchants, and to amend Chapter 10, Article II, Section 10-27, Definitions, by striking the language contained therein and replaced with the following:

CHAPTER 10 - BUSINESSES

ARTICLE I. - IN GENERAL

Sec. 10-9. - Mobile Food Vending.

- a) It shall be unlawful for any person to engage in business as a mobile food vendor within the city without first obtaining a city business license for that purpose. Upon being granted a business license the vendor must comply with the affirmative mandates and must not violate the prohibitions regarding sales, operations, locations and restrictions contained in this Article. The failure to do so may result in the revocation or suspension of the business license.
- b) Mobile food vendors will be only be permitted to locate in areas zoned C-2 or owned by the Town. Vendors may not operate on any street, sidewalk, alley or other right of way unless approved by the Town. In addition, a mobile food vendor operating under this Article shall submit to the city an application that must include:
 - 1) A list of all sites to include the property owner and physical address.
 - 2) The written permission from the property owner for each location.
 - 3) Dates and times the business will be in operation.
 - 4) Site Plan. Adequate parking must exist for both the mobile food vendor as well as any existing permanent business. Planning Director or his designee shall approve the site plan.

- c) Each licensed mobile food vendor must maintain, for patrons' use, a litter receptacle of sufficient size to accept the litter being generated by the sales from the vendor's vehicle at the point of sales. The receptacle must be maintained in such a manner as to preclude an over flow of refuse. Each vendor shall pick up litter which is associated with the vendor's sales in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive litter caused by product packaging shall be a basis of suspension or revocation of the business license.
- d) The mobile vendor shall only use single-service plates and utensils.
- e) Mobile food vendors shall be limited to edibles and hot and cold beverages. The selling of nonfood or drink items shall limited to merchandise displaying the mobile food vendor company logo and/or branding. No items may be displayed outside of the vehicle.
- f) Signage shall be permitted on the vehicle only to identify the name of the product or the name of the vendor, and the posting of prices. A separate menu board is allowed, not exceeding 12 square feet in area and 40 inches height. This sign must be located on the same property as and within close proximity to the mobile vending unit, and should not be placed on the sidewalk or in the public right-of-way.
- g) Hours of operation shall be the same as that for peddlers and solicitors, as described in Sec. 10-1. At the end of each business day's operation, the vendor shall remove from the parcel the mobile food vendor vehicle and all materials associated with the business.
- h) Mobile food vendor shall prominently display the original state DHEC (department of health environmental control) food inspection report that shows a posted grade, unless exempt.
- i) Any mobile food vendor or vending unit that has been issued a notice of health violation by any department of the State of South Carolina, which remains uncorrected upon a subsequent inspection, shall have its mobile food vendor permit revoked;
- j) No vendor shall
 - 1) Leave any vehicle unattended;
 - 2) Store, park or leave any vehicle overnight on any street or sidewalk;
 - 3) Leave from any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor;
 - 4) Solicit or conduct business with persons in motor vehicles;
 - 5) Sell anything other than that for which a license to vend has been issued;
 - 6) Sound or permit the sounding of any device that produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public;
 - 7) Allow any item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property;
 - 8) Change vending locations without first notifying the Planning Department and submitting the required permissions and site plan; and

- 9) Discharge fat, oil, grease, or waste water into the sanitary sewer system. All waste shall be properly stored and disposed of at a properly designated disposal location.
- k) Exemptions. In these cases, the vendor may locate outside of the C-2 district or public property. Planning Director or his designee reserves the power to exempt other rules on a case-by-case basis.
 - 1) Catered Events: Events put on by private parties where only invited guests may purchase or receive food and goods from the vendor. Examples include a wedding reception or a birthday or corporate party.
 - 2) Special events: Events open to the public sponsored by a governmental or eleemosynary entity, such as a festival.
 - 3) Mobile food vendors that fall under a peddler's permit.
- l) Ice Cream Truck rules, specifically:
 - 1) Ice Cream Trucks may remain mobile, making periodic stops for short periods of time in order to make a sale.
 - 2) Ice Cream Trucks may not sound any device which produces an offensive or loud noise to attract customers, and shall not use any public address system on the vehicle to broadcast or advertise products. When mobile, a bell or musical recording may be sounded for a period not to exceed five minutes to announce the arrival of the vehicle at each location.

Sec. 10-10. - Transient Merchants.

- a) It shall be unlawful for any person to engage in business as a transient merchant within the city without first obtaining a city business license for that purpose. Upon being granted a business license the vendor must comply with the affirmative mandates and must not violate the prohibitions regarding sales, operations, locations and restrictions contained in this Article. The failure to do so may result in the revocation or suspension of the business license.
- b) Transient merchants will be only be permitted to locate in areas zoned C-2 or owned by the Town. Vendors may not operate on any street, sidewalk, alley or other right of way unless approved by the Town. In addition, a transient merchant operating under this Article shall submit to the city an application that must include:
 - 1) A list of all sites to include the property owner and physical address.
 - 2) The written permission from the property owner for each location.
 - 3) Dates and times the business will be in operation.
 - 4) Site Plan. Adequate parking must exist for both the transient merchant as well as any existing permanent business. Planning Director or his designee shall approve the site plan.
- c) Hours of operation shall be the same as that for peddlers and solicitors, as described in Sec. 10-1. At the end of each business day's operation, the merchant shall remove from the parcel the all vehicles and materials associated with the business.

Sec. 10-27. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed herein:

Business means a calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly.

Charitable purpose means benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization. A charitable organization shall be deemed a business subject to a license tax unless the entire net proceeds of its operation, after necessary expenses, are devoted to charitable purposes. Compensation in any form to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

Classification means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by town council.

Ice cream truck means a motor vehicle containing a commercial freezer and from which a vendor sells frozen prepackaged food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water and similar. An ice cream truck is a specialized type of mobile food vendor which is permitted to be mobile during hours of operation.

Gross income means the total income of a business, received or accrued, for one calendar year collected or to be collected from business done within the city, excepting therefrom income from business done wholly outside of the town on which a license tax is paid to some other town or a county and fully reported to the city. Gross income for brokers or agents means gross commissions received or retained, unless otherwise specified. Gross income for insurance companies means gross premiums collected. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds which are the property of a third party. The value of bartered goods or trade-in merchandise shall be included in gross income. The gross income for business license purposes may be verified by inspection of returns and reports filed with the Internal

Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission, or other government agency.

License official means a person designated to administer this article.

Mobile food vending unit means a self-contained, vehicle-mounted food service unit that returns daily to its base of operation, as approved by DHEC, and is used for the preparation and/or sale of food products.

Mobile food vendor means a person selling food other than fresh fruit or vegetables from a mobile vendor unit. This definition shall not include solicitors, peddlers, or transient merchants.

Municipality means the Town of Moncks Corner, South Carolina.

Person means any individual, firm, partnership, LLP, LLC, cooperative nonprofit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.

Peddler means any individual, whether a resident of the city or not, traveling by foot, motor vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, selling, taking or attempting to take orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for immediate or future delivery, or for services to be furnished or performed immediately or 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. Any business operating within the city with one or more salespersons or one or more motor vehicles or other type of conveyance shall acquire a business license for each salesperson. This definition provides for such activity on either a short-term or long-term basis within the city and applies to any such mobile sales of goods or services, whether or not operated out of a permanent business location in the city.

Solicitor means a person who asks for donations for a charitable purpose, as described above.

Transient Merchant means any person who sells or purchases goods, wares, merchandise or anything of value, and who for himself or as an agent for another, rents, erects, purchases, uses or occupies any room, building or other structure or place, including, but not limited to, parking lots, shopping centers, sidewalks or any other public area, for the purpose of purchasing, selling or offering

for sale anything of value at such location without the intention of establishing a permanent business thereat. Fireworks stands are a specialized form of transient merchant. Additional rules concerning fireworks stands are covered in Sec. 8-11.

This ordinance shall take effect immediately upon adoption by the Mayor and Council of the Town of Moncks Corner, South Carolina.

ADOPTED this 15th day of November, 2016.



First Reading: October 18, 2016

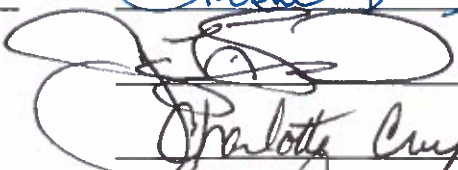
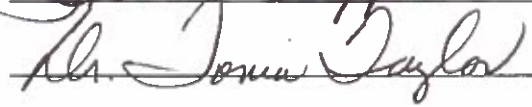
Second Reading/Public Hearing: November 15, 2016

Attest:


Marilyn M. Baker, Clerk-Treasurer


Michael A. Locklear, Mayor

Approved As To Form:


John S. West, Town Attorney