



CITY OF CHARLESTON West Virginia



Council Member – 13th WARD

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Urban Renewal and Economic Development, Chair
Finance Committee
Parking Committee

TO: Urban Renewal and Economic Development Committee
FROM: Brent Burton, Chair
RE: Committee Meeting

UNTIL FURTHER NOTICE, MEETINGS WILL BE MADE AVAILABLE TO THE PUBLIC VIA ZOOM

There will be a Committee meeting of Urban Renewal and Economic Development on November 12, 2020 at 5:00 PM.

***Join via internet:**

<https://us02web.zoom.us/j/86158408185?pwd=TIRIL1BvbENQWndRMjBPSkNvUGVZUT09>

Passcode: 062801

***Join via Telephone: (312) 626-6799 or (929) 436-2866**

Webinar ID: 861 5840 8185

Agenda available on CivicClerk: <https://charlestonwv.civicclerk.com>

Agenda

APPROVAL OF PREVIOUS MINUTES

1. 9-21-2020

BILLS

1. Bill No. 7887 - A BILL to amend the Municipal Code of the City of Charleston, all relating to updating the regulation of street vendors and itinerant vendors; and creating certain business and occupation tax relief for street vendors and itinerant vendors.

DISCUSSION

1. Charleston Convention & Visitors Bureau "Support Small CWV" campaign

ADMINISTRATION UPDATES

THE AGENDA WAS AMENDED 11-9-2020

BB/ns

MINUTES

URBAN RENEWAL AND ECONOMIC DEVELOPMENT COMMITTEE MEETING

12:00 P. M., SEPTEMBER 23, 2020

A/V CONFERENCE ROOM

Brent Burton, Chair, called the meeting of the Charleston City Council Committee on Urban Renewal and Economic Development to order at 12:00 p.m., SEPTEMBER 23, 2020, in the Audio/Visual Room in City Hall.

Committee Members Present:

Brent Burton, Chair

Tiffany Wesley-Plear, Vice Chair

Brady Campbell

Adam Knauff

Chuck Overstreet

Jennifer Pharr (arrived after approval of minutes)

1. Approval of Previous Minutes – Councilmember Wesley-Plear moved to approve the minutes of the previous meeting on 2-6-2020. Councilmember Overstreet seconded. There was no objection and the minutes were approved.

2. Presentation on the 2020 Downtown Charleston Housing Study - Charleston Area Alliance (Susie Salisbury) & Bowen National Research (Patrick Bowen) -

Councilmember Burton introduced Patrick Bowen from Bowen National Research and Susie Salisbury from the Charleston Area Alliance. He added that CAA hired Bowen to conduct a housing needs assessment of Downtown Charleston.

Salisbury added that the update to the 2015 Downtown Housing Study was just completed, with a focus on Market Rate Housing to include rental and for-sale housing. CAA partnered with the Greater Kanawha Valley Foundation and United Bank for the study.

Councilmember Knauff stated that since there was an economic study for Downtown went pretty far into the West Side, what was what was the basis or rationale for the most recent study. Salisbury added that the study was stretched over to Maryland Avenue as much of the “flats” are considered Downtown to include people looking for market rate housing. Bowen added that the inclusion of a few blocks won’t materially affect the conclusions of the study. Additionally, the study in 2015 looked at the entire spectrum of housing, while the current study focuses on Market Rate Housing.

Highlight’s of Bowen presentation:

- The study examined a large economic demographic, housing supply information (historical and current), transportation, parking, crime etc. that would affect why someone would choose to live Downtown or not. Additional information was gathered from an online survey. Case studies were performed on 4 other communities that examined downtown housing markets at different price points.
- Showed how Downtown has historically changed from the rest of the City (with a stabilized growth). If nothing is done to encourage economic and housing growth, the area will start to lose additional households over the next 5 years. Age groups 65+ are expected to grow a lot, which points to an increased demand in senior housing.
- Changes to housing by income are projected to increase in middle to upper income renters. Homeowner growth is expected in households with the highest incomes. Multi-family apartments have a 96.1% occupancy rate (the ideal is 94-96%). The City overall needs additional Market Rate Housing. Premium rates for rentals occur the most for 1-2-bedroom apartments. It is possible that there will be an increased demand for 2-bedroom apartments. There is a high demand for high-end rentals.
- Most non-conventional rentals (single-family home, duplex, etc.) are priced at a premium.
- For-sale housing is stable with price points slowly increasing. Average days on market is 80 days, which indicates a good level of demand.
- The Downtown market is at a competitive disadvantage (older, smaller square footage, less choices, etc.).

- Commuting patterns show that 80% of the workforce does not live in Charleston. It is likely many of those people would be open to living Downtown if their requirements are met.
- There are 2 Qualified Opportunity Zones in the Downtown area that provides incentives for developers.
- Downtown case studies show similar cities to be Altoona, PA, Lancaster, PA, Huntington, WV and Chattanooga, TN. Projects in the downtowns of the cities added to their vibrancy, helped employers attract and retain employees, contributed to urban renewal, etc. It also included construction costs, uncertainty with downtown living, etc. The studies show that housing built downtown with the right product and the right price will be successful.
- Recommendations: network and reach out to groups and developers to promote opportunities, more nightlife and retail opportunities are needed and encourage public/private partnerships.

Councilmember Knauff confirmed that the study suggested that the focus be to smaller development rentals and away from condo units. Bowen added that while condos would be beneficial, the steady shift will be to smaller apartment rentals which will lead to bigger projects.

Councilmember Wesley-Plear asked how much of the non-conventional housing is located on the West Side. Bowen replied that they didn't break it out into geography beyond the Downtown area as opposed to the rest of the City. He added there is a map in the study. Councilmember Wesley-Plear asked if the housing around the King Center or Washington Manor were included. Bowen replied that the index in the back of the survey listed every project that was surveyed, but he did not know from memory. Salisbury added that the townhouses in front of Washington Manor (Clendenin Square/Charleston Village) were included. Bowen added that anything that would be an affordable component (tax credit, government subsidized, etc.) would not have been included in the survey.

Bowen added that the national average for pre-leasing is 10-20%, which is much lower than pre-leasing for the Atlas Building as stated by Councilmember Pharr. Councilmember Pharr added that many similar buildings in the area are prime for this sort of development.

Todd Dorcas, from the Greater Kanawha Valley Foundation, asked if the study showed the percentage of renter versus ownership and how that compares city-wide. Bowen replied that it is estimated that 87.1% of units Downtown are renter occupied. The rest of the City is 46.2%. Dorcas asked if the population loss to the number of housing units consistent with typical demands. Bowen replied that it's complicated, but he believes that there isn't much of a choice Downtown (that does not include affordable housing). That is why he recommended building smaller rentals as a base and building condos and larger rental projects on top of that.

Councilmember Knauff asked what was the difference between somewhat and very walkable as listed in the study. He added that Kanawha Blvd was listed as somewhat, but he felt that it is a very walkable area. Councilmember Knauff additionally asked if parking concerns were included in the study. Bowen replied that the study broke down more walkability spots than would normally be done, and generally they found Downtown to be very walkable (yellow and green areas). Councilmember Knauff said that the study didn't mention anything about grocery stores or access to fresh food, adding that if the area had been extended a block further, it would have included a Kroger. He asked if that should be a concern. Salisbury added that the Capital Market is also in the study area. Salisbury added that the City conducted a parking study several years ago and noted 30,000 parking spots Downtown. Councilmember Knauff agreed that Charleston has a lot of parking and would like to see it as a selling point.

3. Administrative Updates -

Mayor Goodwin announced to the Committee that the City has received grant money to work on the development of Slack Plaza, adding that this will be a great opportunity to encourage urban growth. It will be a seamless connector for walkability as well as building on city center. A design draft was presented to the Committee. Mayor Goodwin added that it is more than just housing, that it is about the amenities and quality of life the City can offer to attract and keep citizens and businesses. Councilmember Knauff confirmed that there is a planned ice-skating rink. Councilmember Wesley-Plear asked if Slack Plaza could be rented out. Mayor Goodwin replied that is something that would need to be examined.

Councilmember Pharr added that some younger professionals said they have stayed on the City because there is now more available housing Downtown.

Councilmember Overstreet motioned to adjourn the meeting. Councilmember Pharr seconded.

Meeting adjourned.

Bill No. 7887

Introduced in Council:

Adopted by Council:

November 2, 2020

Introduced by:

Referred to:

Ben Adams

Urban Renewal and Economic Development

1 **Bill No. 7887** - A BILL to amend and reenact Sections 18-611, 18-613, 18-631, 18-632,
2 18-633, and 18-634 of the Municipal Code of the City of Charleston, as amended; to
3 amend and reenact Sections 18-1031, 18-1032, 18-1033, 18-1034, 18-1035, 18-1036,
4 and 18-1037 of said Code; to amend said Code by adding thereto five new sections,
5 designated Sections 18-1038, 18-1039, 18-1040, 18-1041, and 18-1042; to amend and
6 re-enact Section 18-1061 of said Code; to amend said Code by repealing Sections 18-
7 1062, 18-1063, 18-1064, and 18-1065; to amend said Code by adding thereto a new
8 section, designated Section 18-1081, within a newly created Division 3 of Article XXII,
9 Chapter 18; and to amend and re-enact Section 110-63 of said Code, all relating to
10 updating the regulation of street vendors and itinerant vendors; and creating certain
11 business and occupation tax relief for street vendors and itinerant vendors.

12

13 *WHEREAS*, the City of Charleston is authorized to regulate the use of public streets for
14 public health, safety, welfare and convenience;

15

16 *WHEREAS*, the City of Charleston needs uniform taxation obligations and licensing
17 requirements for all street vendors and iterant vendors doing business within the City;

18

19 *WHEREAS*, the City of Charleston needs an equitable, uniform vending ordinance and
20 regulations in order to protect the public health and welfare and to ensure the safety of
21 pedestrians and vehicular traffic;

22

23 *WHEREAS*, the City of Charleston's current vending ordinance and regulations are not
24 developed to adequately address the recent evolution of the mobile food vehicle industry
25 and other changes in general business practices and technology;

26

27 *WHEREAS*, mobile food vehicles have become a national trend and provide the useful
28 service of convenient and varied dining options;

29

30 *WHEREAS*, the mobile food industry has the unique potential to add vitality, culinary
31 creativity and life to the streets of Charleston, while providing jobs and opportunities to a
32 number of new entrepreneurs; and,

33

34 *WHEREAS*, the City of Charleston finds it in the best interest of the public to authorize
35 the operation of mobile food vehicles within the City, subject to regulations to protect the
36 safe and convenient use of public rights-of-way and to balance the rights and interests of

37 these mobile businesses with those of established restaurant businesses.

38

39 **NOW, therefore, be it ordained by the Council of the City of Charleston:**

40

41 That Sections 18-611, 18-613, 18-631, 18-632, 18-633, and 18-634 of the Municipal Code
42 of the City of Charleston be amended and re-enacted; that Sections 18-1031, 18-1032,
43 18-1033, 18-1034, 18-1035, 18-1036, and 18-1037 of said Code be amended and re-
44 enacted; that said Code be amended by adding thereto five new sections designated
45 Sections 18-1038, 18-1039, 18-1040, 18-1041, and 18-1042; that Section 18-1061 of said
46 Code be amended and re-enacted; that said Code be amended by repealing Sections
47 18-1062, 18-1063, 18-1064, and 18-1065; that said Code be amended by adding thereto
48 a new section, designated Section 18-1081, within a newly created Division 3 of Article
49 XXII, Chapter 18; and that Section 110-63 of said Code be amended and re-enacted, all
50 to read as follows:

51

52 **CHAPTER 18 – BUSINESS.**

53 **ARTICLE XIV. ITINERANT VENDORS.**

54 **DIVISION 1. – GENERALLY.**

55

56 **Sec. 18-611. - Definitions; exemptions.**

57

58 (a) The following words, terms and phrases, when used in this article, shall have
59 the meanings ascribed to them in this section, except where the context clearly indicates
60 a different meaning:

61

62 Itinerant vendor ~~means and~~ includes all persons, whether working independently
63 or as part of an organized event under the umbrella of a promoter, sponsor, or organizer
64 of an event, who engage or conduct within this city, either in one locality or in traveling
65 from place to place, a temporary or transient business of selling goods, wares and
66 merchandise; and who, for the purpose of carrying on such business, use, lease or
67 occupy either in whole or in part, a room, building or other structure, or who use, lease or
68 occupy for such purposes a room in any hotel or other structure, for the exhibition and
69 sale of such goods, wares and merchandise; and the person so engaged shall not be
70 relieved from the provisions of this article by reason of association temporarily with any
71 local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient
72 business in connection with or as part of the business of, or in the name of, any local
73 dealer, trader, merchant or auctioneer. Itinerant vendor shall not include those individuals
74 engaged in business under Article XXII as a street vendor using a Nonmotorized Vending
75 Unit or Mobilized Vending Vehicle.

76

77 (b) The provisions of this article shall not apply to special sales nor to persons
78 conducting special sales within the purview of article VIII of this chapter; nor to sales made
79 to persons engaged in wholesale or retail business by commercial travelers or selling
80 agents in the usual course of business; nor to hawkers or peddlers in the streets, roads
81 or highways, from packs or vehicles as defined in section 18-491; nor to persons selling
82 meat or the products of the farm, garden or dairy; nor to any sales of goods, wares or

83 merchandise on the grounds of any agricultural association during the continuance of any
84 annual fair held by such association; nor to any sales by societies acting for charitable,
85 religious or benevolent purposes; nor to judicial sales directed by law, or under the orders
86 of any court; nor to the sales of the common necessities of life in any public market place.

87

88 **Sec. 18-613. ~~Scope of article.~~ Rules and regulations under article.**

89

90 The City of Charleston City Collector's Office is hereby authorized to promulgate
91 reasonable rules and regulations regarding the administration of the requirements of this
92 article, including the review of all Itinerant Vendor business license and applications.
93 Copies of such regulations, as amended from time to time, shall be maintained by the
94 City Collector's Office, posted on the City's website and on file in the City Clerk's office,
95 and shall be available to interested parties at all reasonable times.

96

97 ~~The provisions of this article shall not apply to:~~

98

99 ~~(1) Sales at trade shows or conventions, expos, arts and crafts fairs, and other similar~~
100 ~~events, or sales by entities at events registered with the Charleston Regatta Commission,~~
101 ~~or sales by entities at events hosted by a nonprofit or political subdivision;~~

102

103 ~~(2) Special sidewalk sales, festivals or other special events allowed by special permit or~~
104 ~~ordinance; or~~

105

106 ~~(3) Any city-sponsored event.~~

107

108 **Secs. 18-614—18-630. - Reserved.**

109

110 **DIVISION 2. - LICENSE**

111

112 **Sec. 18-631. - Application for license and requirements for certain class of sales.**

113

114 An applicant for an itinerant vendor's license shall file an application with the City
115 of Charleston City Collector's Office on such form as prescribed by the city collector. Each
116 applicant for an itinerant vendor's license who proposes to advertise, represent or hold
117 forth a sale of goods, wares or merchandise as a bankrupt, insolvent, assignee, trustee,
118 executor, administrator, receiver, attorney, manufacturer's wholesale sale, or a sale of
119 any goods damaged by smoke, fire, water or otherwise shall state in writing, under oath,
120 to the city collector at the time he makes application for a license, all the facts relating to
121 the reason and character of such sale as proposed to be advertised, held forth or
122 represented, including a statement of the names of the persons from whom such goods,
123 wares or merchandise were purchased and the date of the delivery to the person applying
124 for license; the place, if any, where such goods, wares or merchandise were previously
125 exposed for sale, and such details as are necessary to locate exactly and identify fully all
126 such goods, wares and merchandise proposed to be sold. Such applicant shall also
127 include in such statement the name and residence of the owner in whose interest the
128 business is conducted.

129

130 **Sec. 18-632. - Denial of license when ~~special sales license required instead;~~**
131 **preservation of applications and availability to public; reassessment and appeal.**

132

133 (a) The city collector, upon receipt of a sworn application as provided in section
134 18-631 shall, before issuing the license applied for, first ~~satisfy himself~~ confirm that the
135 proposed sales are not within the purview of article VIII of this chapter; and the city
136 collector shall not issue an itinerant vendor's license for any purpose for which a special
137 sales license is required under the provisions of article VIII of this chapter.

138

139 (b) Each application as provided in section 18-631 shall be kept on file in the office
140 of the city collector, and a record shall be kept by the city collector of all such statements
141 in convenient form and open to public inspection.

142

143 (c) The city collector may summarily deny or revoke an Itinerant Vendor's business
144 license pursuant to the provisions of this Code: (1) for any reason aforementioned; (2)
145 for violation of any term or condition of such license promulgated hereafter; (3) for
146 violation of any pertinent provision of state law, this Code or other ordinance or rules and
147 regulations promulgated thereto; or (4) for the perpetration or attempted perpetration of
148 fraud, malpractice or malfeasance by the licensee.

149

150 (d) Any Itinerant Vendor whose license has been denied or revoked may request
151 reconsideration from the city collector. The request for reconsideration must be received
152 within 20 days from the date of receipt of the revocation and shall include a written
153 explanation stating with particularity the reason for the request. Upon receipt of a timely
154 request for reconsideration, the vendor shall be entitled to a formal hearing before the city
155 collector or a hearing examiner designated by the city collector in order to provide the
156 vendor with an opportunity to show that the action taken was incorrect or contrary to law,
157 in whole or in part, after which hearing, the city collector or the designee shall either grant
158 or deny the request with justification thereof in writing within 15 days of the hearing. If the
159 request for reconsideration is denied, the Itinerant Vendor may appeal within 30 days
160 from the date of the denial or revocation of the license to the Circuit Court of Kanawha
161 County in the manner prescribed by law for an appeal of an administrative decision.

162

163 **Sec. 18-633. - License fee.**

164

165 The annual license fee to carry on the business of itinerant vendor shall be \$20.00.
166 Dishonored checks shall be subject to a \$15.00 returned check fee in addition to the
167 \$20.00 license fee.

168

169 **Sec. 18-634. - Bond required and additional requirements.**

170

171 (a) Every itinerant vendor shall execute a continuing bond in the form prescribed
172 by the city collector, with satisfactory corporate surety, in the penalty of \$5,000.00,
173 payable to the city, conditioned that such itinerant vendor will pay all damages accruing
174 to any person by reason of any act or action done, performed or taken by such itinerant

175 vendor in or about the conduct of his business, and further conditioned that such itinerant
176 vendor will pay all taxes, fees and penalties imposed by this city; however, the aggregate
177 liability of the surety for all such damages, taxes, fees and penalties shall, in no event,
178 exceed the sum of the bond. This bond shall be filed with the city collector and shall be
179 open to inspection during business hours to any person desiring to inspect it.

180

181 (b) Prior to the issuance of an itinerant vendor license, the applicant must agree,
182 in writing, that it shall indemnify, defend, and save harmless the City, its officers, agents,
183 and employees, from and against all liability, claims, suits, damages, losses, costs,
184 attorneys' fees and expenses of any or all types arising out of, or related in any way to
185 the operations or activities of the Itinerant Vendor.

186

187 (c) All Itinerant Vendors are responsible for complying with taxation requirements
188 as provided in this Code, including but not limited to the Business and Occupation Tax as
189 imposed in Sections 110-52 through 110-59. Nothing in this subsection shall be construed
190 as permitting the City to tax in violation of the Constitution or laws of this state or the
191 United States.

192

193 **Secs. 18-635—18-660. - Reserved.**

194

195 **ARTICLE XXII. STREET VENDORS.**

196 **DIVISION 1. GENERALLY.**

197 **Sec. 18-1031. Definitions.**

198

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

202

203 ~~*Central vending district* means the area bounded on the north by Washington Street,~~
204 ~~on the east by Broad Street, on the south by the Kanawha River, and on the west by~~
205 ~~Pennsylvania Avenue. Vending sites within the district shall be identified by the city~~
206 ~~collector in accordance with this division and such other regulation as the city collector~~
207 ~~may promulgate pursuant hereto. Such regulations promulgated by the city collector must~~
208 ~~be approved by the city council.~~

209

210 *Approved public right-of-way* means publicly owned property including, but not limited
211 to, a park, plaza, road, sidewalk or parking space in an area zoned commercial, industrial,
212 central business, urban corridor, professional or medical campus, or otherwise
213 designated by the city manager for use by Street Vendors: *Provided*, That the city
214 manager may also exclude areas from the generally approved zones.

215

216 *Mobilized Vending Vehicle* means a readily movable motorized vehicle whose
217 operator may, upon issuance of a business license and street vending permit by the City,
218 and in conformance with the rules and regulations established pursuant to this Article,
219 along with all applicable parking and traffic regulations, temporarily park such vehicle
220 upon an approved public right-of-way to engage the lawful sale of a service or sale of

221 tangible personal property, including but not limited to, goods, merchandise, food or
222 beverages, and specifically including the preparation, service, sale or distribution of
223 ready-to-eat food and/or beverages for individual portion service to the general public
224 directly from the vehicle, commonly referred to as “food trucks”.

225

226 *Nonmotorized Vending Unit* means a readily movable nonmotorized device, including
227 but not limited to, a pushcart, table, or stand whose operator may, upon issuance of a
228 business license and street vending permit by the City and in conformance with the rules
229 and regulations established pursuant to this Article, temporarily set up such device on an
230 approved public right-of-way and engage in the lawful sale of a service or sale of tangible
231 personal property, including but not limited to, goods, merchandise, food or beverages.

232

233 *Street Vendor* means and includes any person, except itinerant vendors, who
234 possesses a valid street vending permit issued by the City Collector’s Office to engages
235 engage in or conducts conduct the business of selling a service or tangible personal
236 property including but not limited to goods, merchandise, food, or beverages upon any
237 approved public right-of-way, either as principal or agent, and whether working
238 independently or as part of an organized event under the umbrella of a promoter, sponsor,
239 or organizer of an event in the city. a business selling goods, wares, merchandise, food,
240 confectionery or drink upon any street, sidewalk or public park. Street Vendors include
241 both those persons that operate from a Nonmotorized Vending Unit, including but not
242 limited to, pushcarts, tables, or stands, as well as those persons that operate from a
243 Mobilized Vending Vehicle.

244

245 *Outdoor dining area* means a confined area of the public sidewalk or private property,
246 which area is adjacent to an operator’s building/permanent structure, where patrons may
247 sit at tables while consuming food and beverages.

248

249 **Sec. 18-1032. Penalties. Rules and regulations under article; designation of**
250 **Approved public rights-of-way.**

251

252 In addition to any penalties or sanctions provided in this article, the violation of any
253 requirement of this article shall constitute an offense punishable in municipal court with
254 penalty for violation of a fine not to exceed \$500.00 and imprisonment of not more than
255 30 days, or both, for each such offense.

256

257 (a) The City of Charleston City Collector’s Office is hereby authorized to
258 promulgate reasonable rules and regulations regarding the administration of the
259 requirements of this article, including the review of all Street Vendor business license and
260 permit applications. Copies of such regulations, as amended from time to time, shall be
261 maintained by the City Collector’s Office, posted on the City’s website and on file in the
262 City Clerk’s office, and shall be available to interested parties at all reasonable times.

263

264 (b) The generally approved public rights-of-way are defined in Section 18-1031 of
265 this Code. The city manager shall have the authority to designate additional approved
266 public rights-of-way, or portions thereof, for use by Street Vendors; provided, the city

267 manager, at his or her discretion, shall also have the authority to suspend the use of
268 approved public rights-of-way by Street Vendors with or without prior notice for special
269 events or other reasons deemed necessary and appropriate by the city manager.

270

271 **Sec. 18-1033. Scope of Article.**

272

273 The provisions of this Article shall apply to all Street Vendors engaged in the business of
274 selling a service or tangible personal property including but not limited to distributing
275 goods, merchandise, food or beverages with or without charge from a Nonmotorized
276 Vending Unit on an approved public right-of-way and Street Vendors preparing, selling or
277 distributing food and/or beverages with or without charge from a Mobilized Vending
278 Vehicle on an approved public right-of-way subject to the requirements set forth herein.

279

280 ~~The provisions of this article shall not apply to:-~~

281

282 ~~(1) — Sales governed by article XIV of this chapter or sales made to dealers by~~
283 ~~commercial travelers or selling agents in the usual course of business;~~

284 ~~(2) — Bona fide sales of goods, wares or merchandise by samples for future delivery;~~

285 ~~(3) — Sales at trade shows or conventions, expos, arts and crafts fairs, and other similar~~
286 ~~events, or sales by entities at events registered with the Charleston Regatta Commission,~~
287 ~~or sales by entities at events hosted by a nonprofit or political subdivision;-~~

288 ~~(4) — Special sidewalk sales, festivals or other special events allowed by special permit~~
289 ~~or ordinance; or-~~

290 ~~(5) — Any city-sponsored event.~~

291

292 **Sec. 18-1034. Categories for street vending. Business license required; application,**
293 **fee.**

294

295 ~~The types of businesses or activities that are permitted in the central vending district~~
296 ~~shall be defined by the following classifications:-~~

297

298 ~~(1) — *Classification A:* All nonfood items such as T-shirts, sweatshirts, arts/crafts,~~
299 ~~flowers, and any miscellaneous items that are not food products.-~~

300 ~~(2) — *Classification B:* All food products that do not require cooking such as fruits,~~
301 ~~vegetables and nonperishable food items that are prepackaged by the manufacturer.-~~

302 ~~(3) — *Classification C:* All food products that require cooking or heating or a health~~
303 ~~permit.~~

304

305 (a) No person shall engage in the business or trade of a Street Vendor without first
306 obtaining a business license from the city collector; provided, however, that any person
307 who already possesses a valid business license issued by the city collector for the same
308 type of business as that in which it wishes to engage in as a Street Vendor shall not be
309 required to obtain a separate business license for street vending purposes.

310

311 (b) An applicant for a business license shall file an application with the City of
312 Charleston City Collector's Office on such form as prescribed by the city collector. The

313 applicant may be an individual or a firm or corporation on behalf of an individual. In the
314 case where a person, firm or corporation applies for the license on behalf of an individual,
315 the license shall be issued in the name of the applicant; and the license shall also bear
316 the name of the Street Vendor on whose behalf the license is issued.

317

318 (c) The license fee for engaging in the business of a Street Vendor shall be \$20.00
319 per calendar year, or any portion thereof. Dishonored checks shall be subject to a \$15.00
320 returned check fee in addition to the \$20.00 license fee.

321

322 **Sec. 18-1035. Street sales. Revocation of business license.**

323

324 ~~(a) — No person licensed as a vendor shall demonstrate, sell or offer for sale or barter~~
325 ~~any goods, wares, merchandise, food, confection or drink upon any street or sidewalk or~~
326 ~~any other city-owned property within the city except in accordance with all of the following~~
327 ~~provisions:-~~

328

329 ~~(1) — No merchandise shall be displayed or sold except in the locations designated in~~
330 ~~the rules and regulations of the city collector, and approved by the city council.-~~

331 ~~(2) — No merchandise shall be displayed or sold in a manner that blocks, obstructs or~~
332 ~~restricts the free passage of pedestrians or vehicles in the lawful use of the sidewalks,~~
333 ~~streets or public places or ingress or egress to the abutting property.-~~

334 ~~(3) — All merchandise shall be displayed or sold from portable tables, carts or containers~~
335 ~~as approved by the city collector. Each vendor shall remove all merchandise, packaging,~~
336 ~~paper, display tables, carts or containers, or other materials brought to the location at the~~
337 ~~termination of sales each day.-~~

338 ~~(4) — No vendor's table, cart, container or other appurtenances, paraphernalia,~~
339 ~~merchandise, supplies or signage shall occupy an area more than three feet in width and~~
340 ~~eight feet in length.-~~

341 ~~(5) — Each vendor during the period of selling shall keep the area within ten feet of the~~
342 ~~location where the vendor sells or displays merchandise free from all litter and debris~~
343 ~~arising from the operations, including the litter which arises from action of customers in~~
344 ~~disposing of wrapping or packaging materials of merchandise sold by the vendor.-~~

345 ~~(6) — Vendors shall at all times exercise reasonable care that their merchandise,~~
346 ~~packaging material, display equipment and other paraphernalia shall not create a safety~~
347 ~~or health hazard to customers or other persons using the public streets, sidewalks or~~
348 ~~public places, or to persons on or in abutting property.-~~

349 ~~(7) — No street sales shall be conducted nor shall any display table, cart, container or~~
350 ~~other appurtenances be permitted on any public property between the hours of 12:00~~
351 ~~midnight and 6:00 a.m. daily. Any other ordinance prescribing more restrictive hours shall~~
352 ~~prevail.-~~

353 ~~(8) — No items of a pornographic nature shall be sold or displayed by street merchants.~~

354 ~~(9) — The playing of any radio, phonograph, or any musical instrument or device in such~~
355 ~~a manner or with such volume as to annoy or disturb the quiet comfort and repose of store~~
356 ~~owners, employees or patrons in the central vending district is prohibited pursuant to~~
357 ~~section 78-212~~

358

359 b. ~~Nothing in this section shall be construed to prohibit the distribution or the sale of~~
360 ~~newspapers on the sidewalks.~~

361
362 The city collector, upon reasonable notice provided in writing to the licensee
363 through certified mail or personal service, may summarily revoke a Street Vendor's
364 business license pursuant to the provisions of this Code: (1) for any reason which would
365 have been grounds for denial of such license when first issued; (2) for violation of any
366 term or condition of such license; (3) for violation of any pertinent provision of state law,
367 this Code or other ordinance or rules and regulations promulgated thereto; or (4) for the
368 perpetration or attempted perpetration of fraud, malpractice or malfeasance by the
369 licensee.

370
371 **Sec. 18-1036. Compliance with guidelines. Request for reconsideration and appeal**
372 **of revocation of business license.**

373
374 ~~The city collector's office may conduct site checks to determine if vendors are in~~
375 ~~compliance with the guidelines. Upon inspection, if a violation is found, vendors are~~
376 ~~immediately issued site check forms which indicate specific regulation violations. Vendors~~
377 ~~will be given no more than 24 hours to correct cited violations. Upon the receipt of three~~
378 ~~cited violations within 90 days, the city collector may issue a notice terminating the license~~
379 ~~for the remainder of the current licensing period.~~

380
381 Any Street Vendor whose license has been revoked may request reconsideration
382 from the city collector. The request for reconsideration must be received within 20 days
383 from the date of receipt of the revocation and shall include a written explanation stating
384 with particularity the reason for the request. Upon receipt of a timely request for
385 reconsideration, the Street Vendor shall be entitled to a formal hearing before the city
386 collector or a hearing examiner designated by the city collector in order to provide the
387 vendor with an opportunity to show that the action taken was incorrect or contrary to law,
388 in whole or in part, after which hearing, the city collector or the designee shall either grant
389 or deny the request with justification thereof in writing within 15 days of the hearing. If the
390 request for reconsideration is denied, the Street Vendor may appeal within 30 days from
391 the date of the denial or revocation of the license to the Circuit Court of Kanawha County
392 in the manner prescribed by law for an appeal of an administrative decision.

393
394 **Sec. 18-1037. Street vending permit required; application, fees.**

395
396 ~~The violation of any requirement of this article, or of any rule or regulation~~
397 ~~promulgated pursuant to this article, or of any ordinance or law shall be grounds for~~
398 ~~immediate revocation of the Street Vendor's permit by the city collector.~~

399
400 (a) No person or business entity, including a religious or charitable organization,
401 shall operate a Nonmotorized Vending Unit or a Mobilized Vending Vehicle upon the
402 public right-of-way within the City without a street vending permit.

403

404 (b) An applicant for a street vending permit shall file an application with the City of
405 Charleston City Collector's Office on such forms and subject to such procedures as the
406 City Collector's Office may establish. All applicants serving food shall submit with their
407 application evidence of approval from the Kanawha-Charleston Health Department.
408

409 (c) The City may charge an administrative fee for permits not to exceed \$20.00 per
410 permit per calendar year, or any portion thereof. Dishonored checks shall be subject to a
411 \$15.00 returned check fee in addition to the \$20.00 permit fee.
412

413 (d) Permits are nontransferable, and each Nonmotorized Vending Unit or Mobilized
414 Vending Vehicle must have its own permit which shall be posted at all times on or in the
415 Nonmotorized Vending Unit or Mobilized Vending Vehicle, visible to customers and the
416 public.
417

418 (e) Permits shall be renewable on a calendar year basis and shall expire on
419 December 31 of each year: *Provided*, That any street vendor permit granted under the
420 previous version of this Municipal Code for the fiscal year ending June 30, 2021, shall be
421 automatically extended and deemed to expire on December 31, 2021.
422

423 **Sec. 18-1038. Additional Requirements.**
424

425 (a) Prior to the issuance of a street vending permit, the applicant must agree, in
426 writing, that it shall indemnify, defend, and save harmless the City, its officers, agents,
427 and employees, from and against all liability, claims, suits, damages, losses, costs,
428 attorneys' fees and expenses of any or all types arising out of, or related in any way to
429 the operations or activities of the Street Vendor.
430

431 (b) An applicant seeking a permit for a Nonmotorized Vending Unit or Mobilized
432 Vending Vehicle shall maintain such general liability insurance with at least \$1,000,000
433 coverage per each occurrence and shall name as additional insured the City of
434 Charleston, its agents, officers, directors, and employees. A copy of said insurance policy
435 shall be furnished to the City of Charleston.
436

437 **Sec. 18-1039. Revocation of street vending permit.**
438

439 The city collector, upon reasonable notice provided in writing to the Street Vendor
440 through certified mail or personal service, may summarily revoke a Street Vendor's permit
441 pursuant to the provisions of this Code: (1) for any reason which would have been
442 grounds for denial of such permit when first issued for: (2) for violation of any term or
443 condition of such permit; (3) for violation of any pertinent provision of state law, this Code
444 or other ordinance or rules and regulations promulgated thereto; or (4) for the perpetration
445 or attempted perpetration of fraud, malpractice or malfeasance by the permittee.
446

447 **Sec. 18-1040. Request for reconsideration and appeal of revocation of street**
448 **vending permit.**
449

450 Any Street Vendor whose permit has been revoked may request reconsideration
451 from the city collector. The request for reconsideration must be received within 20 days
452 from the date of receipt of the revocation and shall include a written explanation stating
453 with particularity the reason for the request. Upon receipt of a timely request for
454 reconsideration, the Street Vendor shall be entitled to a formal hearing before the city
455 collector or a hearing examiner designated by the city collector in order to provide the
456 vendor with an opportunity to show that the action taken was incorrect or contrary to law,
457 in whole or in part, after which hearing, the city collector or the designee shall either grant
458 or deny the request with justification thereof in writing within 15 days of the hearing. If the
459 request for reconsideration is denied, the Street Vendor may appeal within 30 days from
460 the date of the denial or revocation of the license to the Circuit Court of Kanawha County
461 in the manner prescribed by law for an appeal of an administrative decision.

462

463 **Sec. 18-1041. Compliance with federal, state and local laws and regulations.**

464

465 (a) The operation of a Nonmotorized Vending Unit or Mobilized Vending Vehicle
466 pursuant to a street vending permit granted under this Article shall comply with all
467 provisions of state and local building and fire codes, as well as all state and local health
468 laws and regulations regarding the service and preparation of food, if applicable. Nothing
469 in this article shall be intended to alter or abridge any applicable federal, state and local
470 laws, unless specifically stated herein with respect to the Municipal Code of the City of
471 Charleston.

472

473 (b) Nothing in this article shall be intended to alter or abridge the prohibition of
474 service of alcoholic beverages or possession thereof on public property in the City, as set
475 forth in applicable West Virginia Code and Section 78-211(b) of the Municipal Code of the
476 City of Charleston.

477

478 (c) All Street Vendors are responsible for complying with all taxation and fee
479 requirements as provided in this Code, including but not limited to the Business and
480 Occupation Tax as imposed in Sections 110-52 through 110-59 and the City Service Fee
481 as imposed in Section 2-737. However, the taxation and fee requirements for Street
482 Vendors shall be on an annual filing basis for the entire calendar year on forms prescribed
483 by the City Collector, rather than by quarterly filing. Failure to properly file the required
484 annual tax return will result in the withholding or suspension of a Street Vendor license
485 and permit.

486

487 **Sec. 18-1042. Penalty.**

488

489 In addition to any penalties or sanctions provided in this Article, the violation of any
490 requirement of this Article shall constitute an offense punishable by a civil penalty not to
491 exceed \$500.00 for each offense. Each day of violation shall be considered a separate
492 offense. Any person assessed such a civil penalty shall have the right to appeal the civil
493 penalty to the municipal court by posting bond equivalent to the penalty with the municipal
494 court within thirty days of the date of the assessment and the municipal court shall set the
495 matter for a hearing within six weeks of the appeal.

496

497 **Secs. 18-103743—18-1060. Reserved.**

498

499 **DIVISION 2. LICENSE NONMOTORIZED VENDING UNITS; PUSHCARTS, TABLES**
500 **AND STANDS**

501

502 **Sec. 18-1061. Operation without license unlawful; failure to display license**
503 **unlawful. Standards for Nonmotorized Vending Units.**

504

505 ~~No person shall engage in the business or trade of street vendor without first obtaining a~~
506 ~~license from the city collector. The license shall be displayed conspicuously at all times~~
507 ~~upon the vendor's table, cart or container. Any and all additional licenses or permits~~
508 ~~required pursuant to law shall be displayed conspicuously at all times upon the vendor's~~
509 ~~table, cart or container. Each day's operation of such business without a license shall~~
510 ~~constitute a separate offense.~~

511

512 (a) It shall be unlawful to leave any Nonmotorized Vending Unit unattended on an
513 approved public right of way or remain on an approved public right of way outside of the
514 allowed hours of operation. If any Nonmotorized Vending Unit is left unattended for more
515 than 30 minutes, it will be considered abandoned and may be removed by the City. If
516 removed by the City consistent with this subsection, the Street Vendor shall be liable for
517 all reasonable removal and storage charges. The City may also require additional
518 restrictions to abate nuisances.

519

520 (b) A Street Vendor may not operate a Nonmotorized Vending Unit within two
521 hundred (200) feet of any event that is licensed or sanctioned by the City, unless the
522 Street Vendor is an authorized participant in such event.

523

524 (c) A Street Vendor operating a Nonmotorized Vending Unit may not make or
525 cause to be made any unreasonable or excessive noise in violation of Section 78-212 of
526 this Code, including noise from generators. Any Street Vendor operating a Nonmotorized
527 Vending Unit in conjunction with an operational generator may not operate within 50 feet
528 from any outdoor dining area as defined in this Article. A Street Vendor may not use or
529 maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells,
530 horns or whistles or similar devices. A Street Vendor engaging in food service shall take
531 all reasonable steps to prevent activity akin to a nuisance, including but not limited to
532 smoke and steam emissions.

533

534 (d) With the exception of trash bins, a Street Vendor operating a Nonmotorized
535 Vending Unit may not use or place on the approved public right-of-way any external
536 signage, tables, seating, or any other equipment not contained within or upon the
537 Nonmotorized Vending Unit.

538

539 (e) A Street Vendor operating a Nonmotorized Vending Unit may not have any
540 exclusive and/or perpetual right to use any location upon the streets, alleys, or public
541 grounds of the City. All locations designated as approved public rights-of-way for

542 Nonmotorized Vending Units shall be available on a first come, first served basis with no
543 particular location(s) assigned to any particular Street Vendor(s). Notwithstanding, the
544 City may assign locations for Street Vendors during city-sponsored events.

545

546 (f) A Street Vendor operating a Nonmotorized Vending Unit may not conduct
547 business on an approved public right-of-way between the hours of 4 a.m. and 6 a.m. nor
548 may any Nonmotorized Vending Unit be permitted to remain on an approved public right-
549 of-way between the hours of 4 a.m. and 6 a.m.

550

551 (g) A Nonmotorized Vending Unit operating within the designated locations may
552 not be of a size or configuration as to interfere with City or public use of any public right-
553 of-way or impede ingress or egress by vehicles or pedestrians.

554

555 (h) An unobstructed clearance for pedestrian travel must be maintained around
556 any Nonmotorized Vending Unit.

557

558 (i) An unobstructed clearance of 42 inches, must be maintained between a fire
559 hydrant and any Nonmotorized Vending Unit.

560

561 (j) A Street Vendor operating a Nonmotorized Vending Unit may not park such Unit
562 on a utility/manhole cover located upon an approved public right-of-way.

563

564 (k) Street Vendors shall obey any lawful order of a police officer to move a
565 Nonmotorized Vending Unit to a different approved location, or to remove it entirely, if
566 necessary to avoid congestion or obstruction of a public right-of-way, or for the City's use
567 of such right-of-way for emergency purposes, construction or any other public benefit
568 deemed necessary or appropriate at the discretion of the officer including but not limited
569 to nuisance abatement.

570

571 (l) Any power required for a Nonmotorized Vending Unit located on an approved
572 public right-of-way shall be self-contained and it may not draw its power from the public
573 right-of-way, except where approved by the city manager. Power cables or equipment
574 may not extend across any public street, alley or sidewalk.

575

576 (m) Street Vendors operating a Nonmotorized Vending Unit shall contain all refuse
577 within the Nonmotorized Vending Unit, or provide a small moveable trash can maintained
578 by the Street Vendor and located adjacent to the Nonmotorized Vending Unit in such a
579 manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The operator
580 of the Nonmotorized Vending Unit shall be responsible for properly disposing of such
581 refuse as would any business, and shall not place it in any public trash container, or in
582 any private container without proper permission. Spills of food or food by-products shall
583 be cleaned up by the Street Vendor operating the Nonmotorized Vending Unit, and no
584 dumping of gray water on the streets is allowed.

585

586 (n) Any signage or advertising signs shall be maintained by the Street Vendor and
587 located adjacent to the Nonmotorized Vending Unit in such a manner as not to block or

588 otherwise obstruct pedestrian or vehicular traffic.

589

590 (o) The Street Vendor's license shall be displayed conspicuously at all times upon
591 the vendor's table, cart or container. Any and all additional licenses or permits required
592 pursuant to law and this article shall be displayed conspicuously at all times upon the
593 vendor's table, cart or container.

594

595 (p) Nothing in this Section shall be construed to prohibit the distribution or the sale
596 of newspapers on the sidewalks.

597

598 **Sec. 18-1062. License fees.**

599

600 ~~The license fee for engaging in the trade or business of street vendor shall be \$20.00~~
601 ~~per fiscal year, or any portion. Dishonored checks shall be subject to a \$15.00 return~~
602 ~~check fee in addition to the \$20.00 license fee.~~

603

604 **Sec. 18-1063. Application and issuance of vendor's license; general liability**
605 **insurance required; procedures.**

606

607 ~~(a) — Each applicant for a vendor's license shall file an application with the city collector~~
608 ~~in such form as prescribed by the city collector. The applicant may be an individual or a~~
609 ~~firm or corporation on behalf of an individual. In the case where a person, firm or~~
610 ~~corporation applied for the license on behalf of an individual, the license shall be issued~~
611 ~~in the name of the applicant; and the license shall also bear the name of the vendor on~~
612 ~~whose behalf the license is issued.~~

613

614 ~~(b) — All food vendor applicants under classification C of section 18-1034 shall submit~~
615 ~~with their application evidence of approval from the Kanawha-Charleston Health~~
616 ~~Department for the type of food to be sold.~~

617

618 ~~(c) — No license shall be issued or shall remain in effect unless such vendor can~~
619 ~~demonstrate to the city collector proof of general public liability insurance in the aggregate~~
620 ~~sum of \$500,000.00, naming the city as additional insured, with assurance that the city~~
621 ~~will be advised by the insurance carrier if the insurance is canceled. In addition, such~~
622 ~~vendor shall enter into a hold-harmless agreement with the city.~~

623

624 ~~(d) — All street vendor applicants shall be given a copy of the rules and regulations for~~
625 ~~street vendors and are charged with knowledge of such rules and regulations.~~

626

627 **Sec. 18-1064. Revocation.**

628

629 ~~The violation of any requirement of this division, or of any rule or regulation~~
630 ~~promulgated pursuant to this division, or of any ordinance or law shall be grounds for~~
631 ~~immediate revocation of the vendor's license by the city collector.~~

632

633 **Sec. 18-1065. Appeal of revocation.**

634

635 ~~Any vendor who feels aggrieved by the revocation of the vendor's license or other~~
636 ~~adverse action taken by the city collector may, by filing a written request with the city~~
637 ~~collector within ten days, obtain reconsideration by the city collector. If requested, the~~
638 ~~vendor shall be entitled to a formal hearing before the city collector or a hearing examiner~~
639 ~~designated by the city collector in order to provide the vendor with an opportunity to show~~
640 ~~that the action taken was incorrect or contrary to law, in whole or in part, after which~~
641 ~~hearing, the city collector shall, within a reasonable time, give notice in writing of his~~
642 ~~decision. Such appeal, unless and until the ruling of the city collector is modified or~~
643 ~~rescinded, shall not effect any stay of the action taken by the collector which is being~~
644 ~~appealed. Further appeal may be taken by the vendor to the circuit court by certiorari in~~
645 ~~the manner prescribed by law.~~

646

647 **Secs. 18-106662—18-11601080. Reserved.**

648

649 **DIVISION 3. MOBILIZED VENDING VEHICLES.**

650

651 **Sec. 18-1081. Standards for Mobilized Vending Vehicles.**

652

653 (a) It shall be unlawful to leave any Mobilized Vending Vehicle unattended on an
654 approved public right-of-way or remain on an approved public right-of-way outside of the
655 allowed hours of operation unless the same is legally parked in a manner consistent with
656 all parking and traffic regulations. A Mobilized Vending Vehicle left unattended in violation
657 of this subsection shall be subject to citation(s) for traffic/parking violations and may be
658 towed by the City. If removed by the City consistent with this subdivision, the Street
659 Vendor shall be held liable for all reasonable towing and storage charges. The City may
660 also require additional restrictions to abate nuisances.

661

662 (b) A Street Vendor may not operate a Mobilized Vending Vehicle within two
663 hundred (200) feet of any event that is licensed or sanctioned by the City, unless the
664 Street Vendor is an authorized participant in such event.

665

666 (c) A Street Vendor operating a Mobilized Vending Vehicle may not make or cause
667 to be made any unreasonable or excessive noise in violation of Section 78-212 of this
668 Code, including noise from generators. Any Street Vendor operating a Mobilized Vending
669 Vehicle in conjunction with an operational generator may not operate within 50 feet from
670 any outdoor dining area as defined in this Article. A Street Vendor may not use or maintain
671 any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or
672 whistles or similar devices. A Street Vendor engaging in food service shall take all
673 reasonable steps to prevent activity akin to a nuisance, including but not limited to smoke
674 and steam emissions.

675

676 (d) With the exception of trash bins, a Street Vendor operating a Mobilized Vending
677 Vehicle may not use or place on the public right-of-way any external signage, tables,
678 seating, or any other equipment not contained within or upon the Mobilized Vending
679 Vehicle.

680

681 (e) A Street Vendor operating a Mobilized Vending Vehicle may not have any
682 exclusive and/or perpetual right to use any location upon the streets, alleys, or public
683 grounds of the City. All locations designated as approved public rights-of-way for
684 Mobilized Vending Vehicles shall be available on a first come, first served basis with no
685 particular location(s) assigned to any particular Street Vendor(s). Notwithstanding, the
686 City may assign locations for Street Vendors during city-sponsored events.

687

688 (f) A Street Vendor operating a Mobilized Vending Vehicle may not conduct
689 business on an approved public right-of-way between the hours of 4 a.m. and 6 a.m., nor
690 may any Mobilized Vending Vehicle be permitted to remain on any approved public right-
691 of-way between the hours of 4 a.m. and 6 a.m. unless parked in conformance with all
692 applicable parking and traffic regulations.

693

694 (g) Mobilized Vending Vehicles shall be parked at all times in conformance with
695 applicable parking and traffic regulations, including but not limited to payment of parking
696 meters during hours of operation, and may not hinder the lawful parking or operation of
697 other vehicles. Mobilized Vending Vehicles may not bag parking meters to conduct street
698 vending operations. Mobilized Vending Vehicles shall be permitted to park in loading
699 zones between the hours of 6:00 p.m. and 4:00 a.m. Any opening or window from which
700 business is conducted for all Mobilized Vending Vehicle must open toward the sidewalk,
701 walkway or parking area. No window or opening from which business is conducted may
702 open toward the street or traffic area.

703

704 (h) A Mobilized Vending Vehicle may not be of a size or configuration as to interfere
705 with City or public use of any public right-of-way or impede ingress or egress by vehicles
706 or pedestrians.

707

708 (i) An unobstructed clearance of at least 42 inches must be maintained between a
709 fire hydrant and any Mobilized Vending Vehicle.

710

711 (j) An unobstructed clearance for pedestrian travel must be maintained around any
712 Mobilized Vending Vehicle.

713

714 (k) A Street Vendor operating a Mobilized Vending Vehicle may not park such
715 Vehicle on a utility/manhole cover located upon an approved public right-of-way.

716

717 (l) Street Vendors shall obey any lawful order of a police officer to move a Mobilized
718 Vending Vehicle to a different approved location, or to remove it entirely, if necessary to
719 avoid congestion or obstruction of a public right-of-way, or for the City's use of such right-
720 of-way for emergency purposes, construction or any other public benefit deemed
721 necessary or appropriate at the discretion of the officer, including but not limited to the
722 abatement of a nuisance.

723

724 (m) Any power required for the Mobilized Vending Vehicle located on a public right-
725 of- way shall be self-contained and it may not draw its power from the public right-of-way,

726 except where approved by the city manager. Power cable or equipment may not be
727 extended across any public street, alley or sidewalk.

728
729 (n) Street Vendors shall contain all refuse, trash, and litter within the Mobilized
730 Vending Vehicle or provide a small moveable trash can maintained by the Street Vendor,
731 and located adjacent to the Mobilized Vending Vehicle in such a manner as not to block
732 or otherwise obstruct pedestrian or vehicular traffic. The Street Vendor operating the
733 Mobilized Vending Vehicle shall be responsible for properly disposing of such refuse as
734 would any business, and may not place it in any public trash container, or in any private
735 container without proper permission. Spills of food or food by-products shall be cleaned
736 up by the Street Vendor operating the Mobilized Vending Vehicle, and no dumping of gray
737 water on the streets is allowed.

738
739 (o) Any signage or advertising signs shall be maintained by the Street Vendor and
740 located adjacent to the Mobilized Vending Vehicle in such a manner as not to block or
741 otherwise obstruct pedestrian or vehicular traffic.

742
743 (p) The Street Vendor's license shall be displayed conspicuously at all times upon
744 the vendor's Mobilized Vending Vehicle. Any and all additional licenses or permits
745 required pursuant to law and this article shall be displayed conspicuously at all times upon
746 the vendor's Mobilized Vending Vehicle.

747
748 (q) Nothing in this Section shall be construed to prohibit the distribution or the sale
749 of newspapers from a motor vehicle.

750
751 **Secs. 18-1082—18-1160. Reserved.**

752
753 **CHAPTER 110 – TAXATION**
754 **ARTICLE II – BUSINESS AND OCCUPATION TAX**

755
756 **Sec. 110-63. - Exemptions.**

757
758 (a) The provisions of this article shall not apply to:

759
760 (1) Insurance companies which pay the state a tax upon premiums; provided, that
761 such exemption shall not extend to that part of gross income of insurance companies
762 which is received for the use of real property, other than property in which any such
763 company maintains its office or offices, in the city, whether such income is in the form of
764 rentals or royalties;

765
766 (2) Nonprofit cemetery companies organized and operated for the exclusive benefit
767 of their members;

768
769 (3) Fraternal societies, organizations and associations organized and operated for
770 the exclusive benefit of their members and not for profit; provided, that this exemption
771 shall not extend to that part of gross income arising from the sale of alcoholic liquor, food

772 and related services of such fraternal societies, organizations and associations which are
773 licensed as private clubs under the provisions of W. Va. Code ch. 60, art. 7;

774

775 (4) Corporations, associations and societies organized and operated exclusively
776 for religious or charitable purposes; provided that: the City may impose its business and
777 occupation tax on any activity of a corporation, association or society organized and
778 operated exclusively for religious or charitable purposes only to the extent that the income
779 generated by the activity is subject to taxation under the provisions of section 511 of the
780 Internal Revenue Code of 1986, as amended;

781

782 (5) Production credit associations, organized under the provisions of the federal
783 Farm Credit Act of 1933; provided, that the exemptions of this section shall not apply to
784 corporations or cooperative associations organized under the provisions of W. Va. ch. 19,
785 art. 4;

786

787 (6) Any credit union organized under the provisions of chapter 31 or any other
788 chapter of the Code of West Virginia; provided, that the exemptions of this section shall
789 not apply to corporations or cooperative associations organized under the provisions of
790 W. Va. ch. 19, art. 4;

791

792 (7) Gross income derived from advertising service rendered in the business of
793 radio and television broadcasting;

794

795 (8) The gross income or gross proceeds of sale of a gasification or liquefaction of
796 coal project in the demonstration, pilot or research states; provided, that prior to the
797 commencement of operation of any such project, the tax commissioner of the state shall
798 have first certified the project as eligible for such exemption; provided, further, that such
799 exemption shall expire seven years from the date the project first receives gross income
800 or gross proceeds from sales; and

801

802 ~~(9) — The gross income or gross proceeds of sale derived from sales or services~~
803 ~~by an itinerant vendor or a street vendor in cases where no itinerant vendor license or~~
804 ~~street vendor license is required by City Code sections 18-613 or 18-1033.~~

805

806 (9) The first five thousand dollars (\$5,000.00) of gross income or gross proceeds
807 derived from sales or services by a street vendor or itinerant vendor shall be exempt from
808 the tax imposed by this Article. The street vendor or itinerant vendor shall file a Business
809 and Occupation tax return for such gross income or gross proceeds even if such revenue
810 is exempt.

811

812 (b) An organization is "charitable" for purposes of subdivision (4) of subsection (a)
813 of this section above if it satisfies both of the following criteria: (1) it is exempt from Federal
814 Tax, under 26 U.S.C. § 501(c)(3), and (2) its purposes include relief of poverty,
815 advancement of education, advancement of religion, promotion of health, governmental
816 or municipal purposes, or other purposes that are beneficial to the community.

817