



# CITY OF CHARLESTON WEST VIRGINIA



## COUNCIL MEMBER – WARD 20

Chad Robinson  
793 Lower Donnally Rd.  
Charleston, WV 25304  
304- 389-7373  
[chad.robinson@cityofcharleston.org](mailto:chad.robinson@cityofcharleston.org)

Ordinance and Rules Committee, Chair  
Parks and Recreation Committee  
Finance Committee  
Parking Facilities Committee

A meeting of the Council Committee on Ordinance & Rules will be held on Tuesday, February 20, 2024 at 6:00 PM. **To be held in person**  
**AV ROOM #308, CITY HALL**

### Agenda

#### APPROVAL OF PREVIOUS MINUTES

1. 12-18-2023

#### BILLS

1. Bill No. 8028 – A BILL to amend the Municipal Code of the City of Charleston relating to updating the regulation of vendors.

#### ADJOURN

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**\*Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk.com>**

# MINUTES

## ORDINANCE AND RULES COMMITTEE MEETING

5:00 P. M., DECEMBER 18, 2023

THE MEETING WAS HELD IN PERSON IN THE AV ROOM #308 IN CITY HALL.

Chad Robinson, Chairperson, called the meeting of the Charleston City Council Committee on Ordinance and Rules to order at 5:00 p.m., October 2, 2023.

### **Committee Members Present:**

Chad Robinson, Chair

Patrick Salango, Vice Chair

Frank Annie

Becky Ceperley

Joseph Jenkins (arrived at 5:02)

Emmett Pepper

### **Absent:**

Sam Minardi

Councilmembers also Present:

Mary Beth Hoover

### 1. Approval of Previous Minutes –

Councilmember Ceperley motioned to approve the previous minutes from 10-2-2023. Councilmember Annie seconded the motion. With those being present having voted unanimously in the affirmative, the Chair declared the minutes as approved as amended.

2. Resolution No. 911-23 - Declaring that the City of Charleston, City Administration, its City Council, its various Boards and Commissions, and the citizens and businesses of the City of Charleston will strive to utilize native plant species, minimize pesticide usage, operate bird-safe buildings, and seek opportunities to protect the habitats of species of the greatest conservation need as designated by the West Virginia Division of Natural Resources. –

Councilmember Pepper added that the resolution sets goals that are not binding. The CLRA has identified properties that are adjacent to existing parks, which they have purchased (such as with Danner Meadow). He realized that there wasn't any sort of guidance as to how to identify park spaces in the future, how to determine if a land is best for a park, etc. Additionally, the City should not be doing anything that would contribute to the extinction of any species. The resolution sets a goal that 75% of all residents are within a half mile walk of a park. The City is currently at approximately 52%. The resolution also sets a goal to set aside 5% of land for parks, 3% natural.

Councilmember Ceperley spoke in favor of the resolution.

Councilmember Ceperley moved to approve Resolution No. 911-23. Councilmember Annie seconded. With those being present having voted unanimously in the affirmative, the Chair declared Resolution No. 911-23 as approved.

3. Bill No. 7991 Committee Substitute - A BILL to amend sections of the Municipal Code relating to city agencies and boards adopting wellbeing and conservation goals for the city.–

Councilmember Pepper added that the bill had previously been approved by the Parks and Recreation Committee.

Councilmember Pepper added that the Comprehensive Plan applies to all City agencies, and the bill makes that clear in the City Code.

Councilmember Ceperley moved to approve Bill No. 7991 Committee Substitute. Councilmember Annie seconded. With those being present having voted unanimously in the affirmative, the Chair declared Bill No. Bill No. 7991 Committee Substitute as approved.

Councilmember Annie motioned to adjourn the meeting. Meeting adjourned.

**Bill No. 8028**

**Introduced in Council:**

**Adopted by Council:**

**February 5, 2024**

**Introduced by:**

**Referred to:**

**Jennifer Pharr, Emmett Pepper  
And Mary Beth Hoover**

**Ordinance & Rules**

1 **Bill No. 8028** - A BILL to amend and reenact Section 2-744 of the Municipal Code of the  
2 City of Charleston, as amended; to amend said code by repealing Sections 18-611, 18-  
3 612, 18-613, 18-631, 18-632, 18-633, and 18-634 of said Code; to amend and reenact  
4 Sections 18-1031, 18-1032, 18-1033, 18-1037, 18-1038, 18-1039, 18-1040, and 18-1041  
5 of said Code; to repeal Sections 18-1034, 18-1035, and 18-1036 of said Code; to amend  
6 and reenact Section 18-1061 of said Code; to repeal Section 18-1081 of said Code; and  
7 to amend and re-enact Section 110-63 of said Code, all relating to updating the regulation  
8 of vendors; repealing code requirements for itinerant vendors; updating the vendor  
9 definitions to make distinctions between street vendors, event vendors, and private  
10 property vendors; removing the requirement for vendors to have a business license;  
11 clarifying and simplifying the requirements for vendors; and removing duplicative  
12 language.

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

16  
17 *WHEREAS*, the City of Charleston undertook a modernization of its vending ordinance in  
18 2021, which has greatly improved the opportunities in Charleston for new entrepreneurs;  
19 and

20  
21 *WHEREAS*, the City of Charleston finds that current and future vendors, as well as the  
22 City and its residents, will benefit from clarifying and simplifying the types of vendors as  
23 set forth in this bill.

24  
25 **NOW, therefore, be it ordained by the Council of the City of Charleston:**

26  
27 That Section 2-744 of the Municipal Code of the City of Charleston be amended and  
28 reenacted; that Sections 18-611, 18-612, 18-613, 18-631, 18-632, 18-633, and 18-634 of  
29 said Code be repealed; that Sections 18-1031, 18-1032, 18-1033, 18-1037, 18-1038, 18-  
30 1039, 18-1040, and 18-1041 of said Code be amended and reenacted; that Sections 18-  
31 1034, 18-1035, and 18-1036 of said Code be repealed; that Section 18-1061 of said Code  
32 be amended and reenacted; that Section 18-1081 of said Code be repealed; and that  
33 Section 110-63 of said Code be amended and reenacted, all to read as follows:

34  
35 **CHAPTER 2 - ADMINISTRATION**

36 **ARTICLE VIII – CITY SERVICE FEE**

37  
38 **Sec. 2-744 - Withholding; reporting; payment.**

39  
40 (a) Every employer shall deduct and withhold from any compensation or income  
41 paid to an employee in its employ an amount equal to the fee imposed herein upon said  
42 employee; provided, that an employer shall not deduct or withhold the fee as to any  
43 employee who executes and delivers a proper form prescribed by the city collector  
44 evidencing prior payment of the fee either directly or by collection through another  
45 employer in the city; provided further, that the employer shall maintain adequate records  
46 concerning any such employees. Every employer is deemed to be a trustee for the city in  
47 collecting and holding the fee required to be withheld and the funds so collected by such  
48 withholding are deemed to be trust funds. The failure of any employer to deduct the fee  
49 shall not relieve the employee from the duty to pay the fee. Any employer who fails to  
50 deduct the fee as required by this section, or who fails to pay the trust funds to the city  
51 collector pursuant to this section and the regulations promulgated pursuant thereto, shall  
52 be liable for such fee in full, along with any penalties or interest accrued thereon, as  
53 though the fee had originally been assessed against the employer notwithstanding any  
54 provisions herein to the contrary.

55  
56 (b) Every self-employed individual who is not employed by an employer and who  
57 has not had the fee deducted or withheld by an employer shall file a form prescribed by  
58 the city collector and pay to the city collector all such fees that are due and owing  
59 according to and in the manner prescribed by the regulations promulgated pursuant  
60 hereto.

61  
62 (c) Every individual engaging in the business of ~~street~~ vending as provided in §18-  
63 1031 *et seq.* of this Code, ~~or engaging in business as an itinerant vendor as provided in~~  
64 ~~§18-611 *et seq.*, as applicable,~~ who is not employed by a separate employer within the  
65 city and who has not had the fee deducted or withheld by an employer, shall file a form  
66 prescribed by the city collector and pay to the city collector on an annual basis all such  
67 fees that are due and owing according to and in the manner prescribed by the regulations  
68 promulgated pursuant hereto.

69 **CHAPTER 18 – BUSINESS.**

70 **ARTICLE XIV. ITINERANT VENDORS.**

71 **DIVISION 1. – GENERALLY.**

72 **Sec. 18-611. – Definitions; exemptions.**

73  
74  
75  
76 ~~—(a) The following words, terms and phrases, when used in this article, shall have~~  
77 ~~the meanings ascribed to them in this section, except where the context clearly indicates~~  
78 ~~a different meaning:~~

79  
80 ~~—Itinerant vendor includes all persons, whether working independently or as part of~~  
81 ~~an organized event under the umbrella of a promoter, sponsor, or organizer of an event,~~

82 who engage or conduct within this city, either in one locality or in traveling from place to  
83 place, a temporary or transient business of selling goods, wares and merchandise; and  
84 who, for the purpose of carrying on such business, use, lease or occupy either in whole  
85 or in part, a room, building or other structure, or who use, lease or occupy for such  
86 purposes a room in any hotel or other structure, for the exhibition and sale of such goods,  
87 wares and merchandise; and the person so engaged shall not be relieved from the  
88 provisions of this article by reason of association temporarily with any local dealer, trader,  
89 merchant or auctioneer, or by conducting such temporary or transient business in  
90 connection with or as part of the business of, or in the name of, any local dealer, trader,  
91 merchant or auctioneer. Itinerant vendor shall not include those individuals engaged in  
92 business under Article XXII as a street vendor using a Nonmotorized Vending Unit or  
93 Mobilized Vending Vehicle.

94  
95 ——— (b) The provisions of this article shall not apply to special sales nor to persons  
96 conducting special sales within the purview of article VIII of this chapter; nor to sales made  
97 to persons engaged in wholesale or retail business by commercial travelers or selling  
98 agents in the usual course of business; nor to hawkers or peddlers in the streets, roads  
99 or highways, from packs or vehicles as defined in section 18-491; nor to persons selling  
100 meat or the products of the farm, garden or dairy; nor to any sales of goods, wares or  
101 merchandise on the grounds of any agricultural association during the continuance of any  
102 annual fair held by such association; nor to any sales by societies acting for charitable,  
103 religious or benevolent purposes; nor to judicial sales directed by law, or under the orders  
104 of any court; nor to the sales of the common necessities of life in any public market place.  
105

106 **Sec. 18-612. -- Violations.**

107  
108 Every itinerant vendor who sells or exhibits for sale at public or private sale any  
109 goods, wares or merchandise without first obtaining a license and in all other respects  
110 complying with the provisions of this article, or who makes any false statement in  
111 reference to the matter set out in section 18-631; and every person, whether principal or  
112 agent, who, by circular, handbill, newspaper, or in any manner advertises such sale  
113 before proper licenses are issued to the vendor, and before he has complied with the  
114 provisions of this chapter, shall be guilty of a violation of this section, and shall be  
115 punished as provided in section 1-8.  
116

117 **Sec. 18-613. Rules and regulations under article.**

118  
119 ——— The City of Charleston City Collector's Office is hereby authorized to promulgate  
120 reasonable rules and regulations regarding the administration of the requirements of this  
121 article, including the review of all Itinerant Vendor business license and applications.  
122 Copies of such regulations, as amended from time to time, shall be maintained by the  
123 City Collector's Office, posted on the City's website and on file in the City Clerk's office,  
124 and shall be available to interested parties at all reasonable times.  
125

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

128 **DIVISION 2. -- LICENSE**

129  
130 **Sec. 18-631. -- Application for license and requirements for certain class of sales.**

131  
132 ~~----- An applicant for an itinerant vendor's license shall file an application with the City~~  
133 ~~of Charleston City Collector's Office on such form as prescribed by the city collector. Each~~  
134 ~~applicant for an itinerant vendor's license who proposes to advertise, represent or hold~~  
135 ~~forth a sale of goods, wares or merchandise as a bankrupt, insolvent, assignee, trustee,~~  
136 ~~executor, administrator, receiver, attorney, manufacturer's wholesale sale, or a sale of~~  
137 ~~any goods damaged by smoke, fire, water or otherwise shall state in writing, under oath,~~  
138 ~~to the city collector at the time he makes application for a license, all the facts relating to~~  
139 ~~the reason and character of such sale as proposed to be advertised, held forth or~~  
140 ~~represented, including a statement of the names of the persons from whom such goods,~~  
141 ~~wares or merchandise were purchased and the date of the delivery to the person applying~~  
142 ~~for license; the place, if any, where such goods, wares or merchandise were previously~~  
143 ~~exposed for sale, and such details as are necessary to locate exactly and identify fully all~~  
144 ~~such goods, wares and merchandise proposed to be sold. Such applicant shall also~~  
145 ~~include in such statement the name and residence of the owner in whose interest the~~  
146 ~~business is conducted.~~

147  
148 **Sec. 18-632. -- Denial of license; preservation of applications and availability to**  
149 **public; reassessment and appeal.**

150  
151 ~~(a) The city collector, upon receipt of a sworn application as provided in section~~  
152 ~~18-631 shall, before issuing the license applied for, first confirm that the proposed sales~~  
153 ~~are not within the purview of article VIII of this chapter; and the city collector shall not~~  
154 ~~issue an itinerant vendor's license for any purpose for which a special sales license is~~  
155 ~~required under the provisions of article VIII of this chapter.~~

156  
157 ~~(b) Each application as provided in section 18-631 shall be kept on file in the office~~  
158 ~~of the city collector, and a record shall be kept by the city collector of all such statements~~  
159 ~~in convenient form and open to public inspection.~~

160  
161 ~~(c) The city collector may summarily deny or revoke an Itinerant Vendor's business~~  
162 ~~license pursuant to the provisions of this Code: (1) for any reason aforementioned; (2)~~  
163 ~~for violation of any term or condition of such license promulgated hereafter; (3) for~~  
164 ~~violation of any pertinent provision of state law, this Code or other ordinance or rules and~~  
165 ~~regulations promulgated thereto; or (4) for the perpetration or attempted perpetration of~~  
166 ~~fraud, malpractice or malfeasance by the licensee.~~

167  
168 ~~(d) Any Itinerant Vendor whose license has been denied or revoked may request~~  
169 ~~reconsideration from the city collector. The request for reconsideration must be received~~  
170 ~~within 20 days from the date of receipt of the revocation and shall include a written~~  
171 ~~explanation stating with particularity the reason for the request. Upon receipt of a timely~~  
172 ~~request for reconsideration, the vendor shall be entitled to a formal hearing before the city~~  
173 ~~collector or a hearing examiner designated by the city collector in order to provide the~~

174 vendor with an opportunity to show that the action taken was incorrect or contrary to law,  
175 in whole or in part, after which hearing, the city collector or the designee shall either grant  
176 or deny the request with justification thereof in writing within 15 days of the hearing. If the  
177 request for reconsideration is denied, the Itinerant Vendor may appeal within 30 days  
178 from the date of the denial or revocation of the license to the Circuit Court of Kanawha  
179 County in the manner prescribed by law for an appeal of an administrative decision.

180  
181 **Sec. 18-633. -- License fee.**

182  
183 ~~The annual license fee to carry on the business of itinerant vendor shall be \$20.00.~~  
184 ~~Dishonored checks shall be subject to a \$15.00 returned check fee in addition to the~~  
185 ~~\$20.00 license fee.~~

186  
187 **Sec. 18-634. -- Bond required and additional requirements.**

188  
189 ~~———— (a) Every itinerant vendor shall execute a continuing bond in the form prescribed~~  
190 ~~by the city collector, with satisfactory corporate surety, in the penalty of \$5,000.00,~~  
191 ~~payable to the city, conditioned that such itinerant vendor will pay all damages accruing~~  
192 ~~to any person by reason of any act or action done, performed or taken by such itinerant~~  
193 ~~vendor in or about the conduct of his business, and further conditioned that such itinerant~~  
194 ~~vendor will pay all taxes, fees and penalties imposed by this city; however, the aggregate~~  
195 ~~liability of the surety for all such damages, taxes, fees and penalties shall, in no event,~~  
196 ~~exceed the sum of the bond. This bond shall be filed with the city collector and shall be~~  
197 ~~open to inspection during business hours to any person desiring to inspect it.~~

198  
199 ~~———— (b) Prior to the issuance of an itinerant vendor license, the applicant must agree,~~  
200 ~~in writing, that it shall indemnify, defend, and save harmless the City, its officers, agents,~~  
201 ~~and employees, from and against all liability, claims, suits, damages, losses, costs,~~  
202 ~~attorneys' fees and expenses of any or all types arising out of, or related in any way to~~  
203 ~~the operations or activities of the Itinerant Vendor.~~

204  
205 ~~———— (c) All Itinerant Vendors are responsible for complying with taxation and fee~~  
206 ~~requirements as provided in this Code, including but not limited to the Business and~~  
207 ~~Occupation Tax as imposed in Sections 110-52 through 110-59 and City Service Fee as~~  
208 ~~imposed 2-744, as applicable. Nothing in this subsection shall be construed as permitting~~  
209 ~~the City to tax in violation of the Constitution or laws of this state or the United States.~~

210  
211 **ARTICLE XXII. STREET, EVENT, AND PRIVATE PROPERTY VENDORS.**

212 **DIVISION 1. GENERALLY.**

213 **Sec. 18-1031. Definitions.**

214  
215 The following words, terms and phrases, when used in this article, shall have the  
216 meanings ascribed to them in this section, except where the context clearly indicates a  
217 different meaning:  
218

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

224  
225 *Event Vendor* means any person who engages in the business of selling a service or  
226 tangible personal property as part of an organized event under the umbrella of a promoter,  
227 sponsor, or organizer of an event that is authorized by the city, but who does not engage  
228 in business outside of the event upon an approved public right-of-way. Event Vendors  
229 include both those persons that operate from a Nonmotorized Vending Unit, as well as  
230 those persons that operate from a Mobilized Vending Vehicle.

231  
232 *Mobilized Vending Vehicle* means a readily movable motorized vehicle whose  
233 operator may, upon issuance of a ~~business license and street~~ vending permit by the City,  
234 and in conformance with the rules and regulations established pursuant to this Article,  
235 along with all applicable parking and traffic regulations, temporarily park such vehicle  
236 upon an approved public right-of-way or on private property to engage in the lawful sale  
237 of a service or sale of tangible personal property, including but not limited to, goods,  
238 merchandise, food or beverages, and specifically including the preparation, service, sale  
239 or distribution of ready-to-eat food and/or beverages for individual portion service to the  
240 general public directly from the vehicle, commonly referred to as “food trucks”.

241  
242 *Nonmotorized Vending Unit* means a readily movable nonmotorized device, including  
243 but not limited to, a pushcart, table, or stand whose operator may, upon issuance of a  
244 ~~business license and street~~ vending permit by the City and in conformance with the rules  
245 and regulations established pursuant to this Article, temporarily set up such device on an  
246 approved public right-of-way or on private property and engage in the lawful sale of a  
247 service or sale of tangible personal property, including but not limited to, goods,  
248 merchandise, food or beverages.

249  
250 *Private Property Vendor* means any person who engages in the business of selling a  
251 service or tangible personal property on private property, rather than on the public right-  
252 of-way in an event that is authorized by the City, but who does not engage in business  
253 outside of private property upon an approved public right-of-way or as part of a City  
254 authorized event. Private Property Vendors are limited to those persons that operate from  
255 a Nonmotorized Vending Unit or a Mobilized Vending Vehicle either in one locality or in  
256 traveling from place to place; a temporary or transient business of selling goods, wares  
257 and merchandise. The definition of Private Property Vendor does not include a person  
258 who engages in the business of selling a service or tangible personal property at a fixed  
259 place, which requires a general business license, such as a traditional brick and mortar  
260 storefront.

261  
262 *Street Vendor* means any person who ~~possesses a valid street vending permit issued~~  
263 ~~by the City Collector’s Office to engage in or conduct~~ engages in the business of selling  
264 a service or tangible personal property including but not limited to goods, merchandise,

265 food, or beverages upon any approved public right-of-way, either as principal or agent,  
266 and whether working independently or as part of an organized event under the umbrella  
267 of a promoter, sponsor, or organizer of an event in the city. Street Vendors include both  
268 those persons that operate from a Nonmotorized Vending Unit, ~~including but not limited~~  
269 ~~to, pushcarts, tables, or stands,~~ as well as those persons that operate from a Mobilized  
270 Vending Vehicle. Street Vendors include people distributing goods, merchandise, food,  
271 or beverages without charge who are operating within the public right-of-way.

272  
273 *Outdoor dining area* means a confined area of the public right of way or private  
274 property, which area is adjacent to an operator's building/permanent structure, where  
275 patrons may sit at tables while consuming food and beverages.

276  
277 Vendor means a Street Vendor, Event Vendor, or Private Property Vendor, as defined  
278 in this section. All Vendors shall follow the requirements of this article.

279  
280 **Sec. 18-1032. Rules and regulations under article; designation of Approved public**  
281 **rights-of-way.**

282  
283 (a) The City of Charleston City Collector's Office is hereby authorized to  
284 promulgate reasonable rules and regulations regarding the administration of the  
285 requirements of this article, including the review of all Street Vendor ~~business license and~~  
286 permit applications. Copies of such regulations, as amended from time to time, shall be  
287 maintained by the City Collector's Office, posted on the City's website and on file in the  
288 City Clerk's office, and shall be available to interested parties at all reasonable times.

289  
290 (b) The generally approved public rights-of-way are defined in Section 18-1031 of  
291 this Code. The city manager shall have the authority to designate additional approved  
292 public rights-of-way, or portions thereof, for use by Street Vendors; provided, the city  
293 manager, at his or her discretion, shall also have the authority to suspend the use of  
294 approved public rights-of-way by Street Vendors with or without prior notice for special  
295 events or other reasons deemed necessary and appropriate by the city manager.

296  
297 **Sec. 18-1033. Scope of Article.**

298  
299 The provisions of this Article shall apply to all Street Vendors, including Street Vendors,  
300 Event Vendors, and Private Property Vendors. ~~engaged in the business of selling a~~  
301 ~~service or tangible personal property including but not limited to distributing goods,~~  
302 ~~merchandise, food or beverages with or without charge from a Nonmotorized Vending~~  
303 ~~Unit on an approved public right-of-way and Street Vendors preparing, selling or~~  
304 ~~distributing food and/or beverages with or without charge from a Mobilized Vending~~  
305 ~~Vehicle on an approved public right-of-way subject to the requirements set forth herein.~~

306  
307 **Sec. 18-1034. Business license required; application, fee.**

308  
309 ~~—(a) No person shall engage in the business or trade of a Street Vendor without first~~  
310 ~~obtaining a business license from the city collector; provided, however, that any person~~

311 who already possesses a valid business license issued by the city collector for the same  
312 type of business as that in which it wishes to engage in as a Street Vendor shall not be  
313 required to obtain a separate business license for street vending purposes.

314  
315 ~~—— (b) An applicant for a business license shall file an application with the City of~~  
316 ~~Charleston City Collector's Office on such form as prescribed by the city collector. The~~  
317 ~~applicant may be an individual or a firm or corporation on behalf of an individual. In the~~  
318 ~~case where a person, firm or corporation applies for the license on behalf of an individual,~~  
319 ~~the license shall be issued in the name of the applicant; and the license shall also bear~~  
320 ~~the name of the Street Vendor on whose behalf the license is issued.~~

321  
322 ~~—— (c) The license fee for engaging in the business of a Street Vendor shall be~~  
323 ~~\$20.00 per calendar year, or any portion thereof. Dishonored checks shall be subject to~~  
324 ~~a \$15.00 returned check fee in addition to the \$20.00 license fee.~~

325  
326 **Sec. 18-1035. Revocation of business license.**

327  
328 ~~—— The city collector, upon reasonable notice provided in writing to the licensee~~  
329 ~~through certified mail or personal service, may summarily revoke a Street Vendor's~~  
330 ~~business license pursuant to the provisions of this Code: (1) for any reason which would~~  
331 ~~have been grounds for denial of such license when first issued; (2) for violation of any~~  
332 ~~term or condition of such license; (3) for violation of any pertinent provision of state law,~~  
333 ~~this Code or other ordinance or rules and regulations promulgated thereto; or (4) for the~~  
334 ~~perpetration or attempted perpetration of fraud, malpractice or malfeasance by the~~  
335 ~~licensee.~~

336  
337 **Sec. 18-1036. Request for reconsideration and appeal of revocation of business**  
338 **license.**

339  
340 Any Street Vendor whose license has been revoked may request reconsideration  
341 from the city collector. The request for reconsideration must be received within 20 days  
342 from the date of receipt of the revocation and shall include a written explanation stating  
343 with particularity the reason for the request. Upon receipt of a timely request for  
344 reconsideration, the Street Vendor shall be entitled to a formal hearing before the city  
345 collector or a hearing examiner designated by the city collector in order to provide the  
346 vendor with an opportunity to show that the action taken was incorrect or contrary to law,  
347 in whole or in part, after which hearing, the city collector or the designee shall either grant  
348 or deny the request with justification thereof in writing within 15 days of the hearing. If the  
349 request for reconsideration is denied, the Street Vendor may appeal within 30 days from  
350 the date of the denial or revocation of the license to the Circuit Court of Kanawha County  
351 in the manner prescribed by law for an appeal of an administrative decision.

352  
353 **Sec. 18-1037. Street vending Vending permit required; application, fees.**  
354

355 (a) No person or business entity, including a religious or charitable organization,  
356 shall operate a ~~Nonmotorized Vending Unit or a Mobilized Vending Vehicle~~ upon the  
357 public right-of-way as a Vendor within the City without a street vending permit, except as  
358 otherwise herein provided.

359  
360 (b) An applicant for a street vending permit shall file an application with the City of  
361 Charleston City Collector's Office on such forms and subject to such procedures as the  
362 City Collector's Office may establish. All applicants shall acknowledge in writing that they  
363 will not ~~serve~~ serve food or alcohol, unless and until they are in good standing with the  
364 Kanawha-Charleston Health Department and the West Virginia Alcohol Beverage Control  
365 Administration, as applicable. Upon request by the City Collector's Office, a vendor shall  
366 submit with their application evidence of approval from the Kanawha-Charleston Health  
367 Department and the West Virginia Alcohol Beverage Control Administration, as  
368 applicable.

369  
370 (c) The City shall charge an administrative fee for permits not to exceed of \$20.00  
371 per permit per calendar year, or any portion thereof. Dishonored checks shall be subject  
372 to a \$15.00 returned check fee in addition to the \$20.00 permit fee. The applicant shall  
373 indicate whether it is applying to be a Street Vendor, Event Vendor, or Private Property  
374 Vendor. All approved Street Vendors are automatically qualified to be Event Vendors and  
375 Private Property Vendors. All Event Vendors are automatically qualified to be Private  
376 Property Vendors.

377  
378 (d) Permits are nontransferable, and each ~~Nonmotorized Vending Unit or Mobilized~~  
379 ~~Vending Vehicle~~ Vendor must have its own permit which shall be posted at all times on  
380 or in the Nonmotorized Vending Unit or Mobilized Vending Vehicle, visible to customers  
381 and the public.

382  
383 (e) The City Collector shall issue the vending permit upon receipt of a satisfactory  
384 application and administrative fee, and such permit shall clearly indicate whether it is a  
385 Street Vendor, Event Vendor, or Private Property Vendor. Permits shall be renewable on  
386 a calendar year basis and shall expire on December 31 of each year. ~~Provided, That any~~  
387 street vendor permit granted under the previous version of this Municipal Code for the  
388 fiscal year ending June 30, 2021, shall be automatically extended and deemed to expire  
389 on December 31, 2021.

390  
391 **Sec. 18-1038. Additional Requirements.**

392  
393 (a) Prior to the issuance of a ~~street~~ vending permit for a Street Vendor, the  
394 applicant must agree, in writing, that it shall indemnify, defend, and save harmless the  
395 City, its officers, agents, and employees, from and against all liability, claims, suits,  
396 damages, losses, costs, attorneys' fees and expenses of any or all types arising out of,  
397 or related in any way to the operations or activities of the Street Vendor. The Street  
398 Vendor applicant ~~(b) An applicant seeking a permit for a Nonmotorized Vending Unit or~~  
399 ~~Mobilized Vending Vehicle~~ shall maintain such general liability insurance with at least  
400 \$1,000,000 coverage per each occurrence and shall name as additional insured the City

401 of Charleston, its agents, officers, directors, and employees. A copy of said insurance  
402 policy shall be furnished to the City of Charleston.;~~Provided that,~~

403  
404 (b) Prior to the issuance of a vending permit for an Event Vendor, the applicant  
405 must acknowledge, in writing, that it is only applying to operate if a Street Vendor is  
406 operating in conjunction with an organized event, private or public authorized by the City,  
407 and said event provides umbrella insurance coverage sufficient to satisfy the  
408 requirements herein or that the Event Vendor will be required to provide further  
409 information to the City Event Coordinator., then the street vendor will not be required to  
410 maintain independent insurance to participate in the organized event.

411  
412 (c) Prior to the issuance of a vending permit for a Private Property Vendor, the  
413 applicant must acknowledge, in writing that it is only applying to operate on private  
414 property and that it will need a different permit if it intends to operate as part of an  
415 authorized City event or upon the public right of way.

416  
417 **Sec. 18-1039. Revocation of street vending permit.**

418  
419 The city collector, upon reasonable notice provided in writing to the ~~Street~~ Vendor  
420 through certified mail or personal service, may summarily revoke a ~~Street~~ Vendor's permit  
421 pursuant to the provisions of this Code: (1) for any reason which would have been  
422 grounds for denial of such permit when first issued for: (2) for violation of any term or  
423 condition of such permit; (3) for violation of any pertinent provision of state law, this Code  
424 or other ordinance or rules and regulations promulgated thereto; or (4) for the perpetration  
425 or attempted perpetration of fraud, malpractice or malfeasance by the permittee.

426  
427 **Sec. 18-1040. Request for reconsideration and appeal of revocation of street**  
428 **vending permit.**

429  
430 Any ~~Street~~ Vendor whose permit has been revoked may request reconsideration  
431 from the city collector. The request for reconsideration must be received within 20 days  
432 from the date of receipt of the revocation and shall include a written explanation stating  
433 with particularity the reason for the request. Upon receipt of a timely request for  
434 reconsideration, the ~~Street~~ Vendor shall be entitled to a formal hearing before the city  
435 collector or a hearing examiner designated by the city collector in order to provide the  
436 Vendor with an opportunity to show that the action taken was incorrect or contrary to law,  
437 in whole or in part, after which hearing, the city collector or the designee shall either grant  
438 or deny the request with justification thereof in writing within 15 days of the hearing. If the  
439 request for reconsideration is denied, the ~~Street~~ Vendor may appeal within 30 days from  
440 the date of the denial or revocation of the license permit to the Circuit Court of Kanawha  
441 County in the manner prescribed by law for an appeal of an administrative decision.

442  
443 **Sec. 18-1041. Compliance with federal, state and local laws and regulations.**

444  
445 (a) The operation of a Nonmotorized Vending Unit or Mobilized Vending Vehicle  
446 pursuant to a ~~street~~ vending permit granted under this Article shall comply with all

447 provisions of state and local building and fire codes, as well as all state and local health  
448 laws and regulations regarding the service and preparation of food, if applicable. Nothing  
449 in this article shall be intended to alter or abridge any applicable federal, state and local  
450 laws, unless specifically stated herein with respect to the Municipal Code of the City of  
451 Charleston.

452  
453 (b) Nothing in this article shall be intended to alter or abridge the prohibition of  
454 service of alcoholic beverages or possession thereof on public property in the City, as set  
455 forth in applicable West Virginia Code and ~~Section 78-211(b)~~ of the Municipal Code of the  
456 City of Charleston.

457  
458 (c) All ~~Street~~ Vendors are responsible for complying with all taxation and fee  
459 requirements as provided in this Code, including but not limited to the Business and  
460 Occupation Tax as imposed in Sections 110-52 through 110-59 and the City Service Fee  
461 as imposed in Sections 2-737 and 2-744. However, the taxation and fee requirements for  
462 ~~Street~~ Vendors shall be on an annual filing basis for the entire calendar year on forms  
463 prescribed by the City Collector, rather than by quarterly filing. Therefore, all tax and fee  
464 requirements referenced herein shall be filed and paid to the Office of the City Collector  
465 by January 31<sup>st</sup> of the succeeding year. Failure to properly file the required annual tax  
466 return will result in the withholding or suspension of a ~~Street~~ Vendor license and permit.

467  
468 **DIVISION 2. NONMOTORIZED VENDING UNITS; PUSHCARTS, TABLES AND**  
469 **STANDS VENDOR STANDARDS.**

470  
471 **Sec. 18-1061. Standards for Nonmotorized Vending Units Requirements and**  
472 **Regulations of Vendors.**

473  
474  
475 (a) It shall be unlawful to leave any Nonmotorized Vending Unit or Mobilized  
476 Vending Vehicle unattended on an approved public right of way or remain on an approved  
477 public right of way outside of the allowed hours of operation, unless the Mobilized Vending  
478 Vehicle is legally parked in a manner consistent with all parking and traffic regulations. If  
479 any Nonmotorized Vending Unit is left unattended for more than 30 minutes, it will be  
480 considered abandoned and may be removed by the City. A Mobilized Vending Vehicle  
481 left unattended in violation of this subsection shall be subject to citation(s) for  
482 traffic/parking violations and may be towed by the City. If removed or towed by the City  
483 consistent with this subsection, the ~~Street~~ Vendor shall be liable for all reasonable  
484 removal, towing, and storage charges. The City may also require additional restrictions  
485 to abate nuisances.

486  
487 (b) A ~~Street~~ Vendor may not operate a Nonmotorized Vending Unit or Mobilized  
488 Vending Vehicle within two hundred (200) feet of any event that is ~~licensed or sanctioned~~  
489 authorized by the City, unless the ~~Street~~ Vendor is an authorized approved participant in  
490 such event.

491  
492 (c) A ~~Street~~ Vendor operating a Nonmotorized Vending Unit or Mobilized Vending

493 Vehicle may not make or cause to be made any unreasonable or excessive noise in  
494 violation of Section 78-212 of this Code, including noise from generators. Any ~~Street~~  
495 Vendor operating a Nonmotorized Vending Unit or Mobilized Vending Vehicle in  
496 conjunction with an operational generator may not operate within 50 feet from any outdoor  
497 dining area as defined in this Article. A ~~Street~~ Vendor may not use or maintain any outside  
498 sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or  
499 similar devices. A ~~Street~~ Vendor engaging in food service shall take all reasonable steps  
500 to prevent activity akin to a nuisance, including but not limited to smoke and steam  
501 emissions.

502  
503 (d) With the exception of trash bins and signage authorized by this section, a ~~Street~~  
504 Vendor operating a Nonmotorized Vending Unit or Mobilized Vending Vehicle may not  
505 use or place on the approved public right-of-way any ~~external signage~~, tables, seating, or  
506 any other equipment not contained within or upon the Nonmotorized Vending Unit or  
507 Mobilized Vending Vehicle.

508  
509 (e) A ~~Street~~ Vendor operating a Nonmotorized Vending Unit or Mobilized Vending  
510 Vehicle may not have any exclusive and/or perpetual right to use any location upon the  
511 streets, alleys, or public grounds of the City. All locations designated as approved public  
512 rights-of-way for Nonmotorized Vending Units shall be available on a first come, first  
513 served basis with no particular location(s) assigned to any particular ~~Street~~ Vendor(s).  
514 Notwithstanding, the City may assign locations for ~~Street~~ Vendors during city-sponsored  
515 events.

516  
517 (f) A ~~Street~~ Vendor operating a Nonmotorized Vending Unit or Mobilized Vending  
518 Vehicle may not conduct business on an approved public right-of-way between the hours  
519 of 4 a.m. and 6 a.m. nor may any Nonmotorized Vending Unit or Mobilized Vending  
520 Vehicle be permitted to remain on an approved public right-of-way between the hours of  
521 4 a.m. and 6 a.m., unless the Mobilized Vending Vehicle is parked in conformance with  
522 all applicable parking and traffic regulations. Mobilized Vending Vehicles shall be parked  
523 at all times in conformance with applicable parking and traffic regulations, including but  
524 not limited to payment of parking meters during hours of operation, and may not hinder  
525 the lawful parking or operation of other vehicles. Mobilized Vending Vehicles may not bag  
526 parking meters to conduct street vending operations. Mobilized Vending Vehicles shall  
527 be permitted to park in loading zones between the hours of 6:00 p.m. and 4:00 a.m. Any  
528 opening or window from which business is conducted for all Mobilized Vending Vehicle  
529 must open toward the sidewalk, walkway or parking area. No window or opening from  
530 which business is conducted may open toward the street or traffic area.

531  
532 (g) A Nonmotorized Vending Unit or Mobilized Vending Vehicle operating within  
533 the designated locations may not be of a size or configuration as to interfere with City or  
534 public use of any public right-of-way or impede ingress or egress by vehicles or  
535 pedestrians.

536  
537 (h) An unobstructed clearance for pedestrian travel consistent with the Americans  
538 with Disabilities Act must be maintained around any Nonmotorized Vending Unit or

539 Mobilized Vending Vehicle.

540  
541 (i) An unobstructed clearance of 42 inches, must be maintained between a fire  
542 hydrant and any Nonmotorized Vending Unit or Mobilized Vending Vehicle.

543  
544 (j) A ~~Street~~ Vendor operating a Nonmotorized Vending Unit or Mobilized Vending  
545 Vehicle may not park such Unit on a utility/manhole cover located upon an approved  
546 public right-of-way.

547  
548 (k) ~~Street~~ Vendors shall obey any lawful order of a police officer to move a  
549 Nonmotorized Vending Unit or Mobilized Vending Vehicle to a different approved location,  
550 or to remove it entirely, if necessary to avoid congestion or obstruction of a public right-  
551 of-way, or for the City's use of such right-of-way for emergency purposes, construction or  
552 any other public benefit deemed necessary or appropriate at the discretion of the officer  
553 including but not limited to nuisance abatement.

554  
555 (l) Any power required for a Nonmotorized Vending Unit or Mobilized Vending  
556 Vehicle located on an approved public right-of-way shall be self-contained and it may not  
557 draw its power from the public right-of-way, except where approved by the city manager.  
558 Power cables or equipment may not extend across any public street, alley or sidewalk.

559  
560 (m) ~~Street~~ Vendors operating a Nonmotorized Vending Unit or Mobilized Vending  
561 Vehicle shall contain all refuse, trash, and litter within the Nonmotorized Vending Unit or  
562 Mobilized Vending Vehicle, or provide a small moveable trash can maintained by the  
563 Street Vendor and located adjacent to the Nonmotorized Vending Unit or Mobilized  
564 Vending Vehicle in such a manner as not to block or otherwise obstruct pedestrian or  
565 vehicular traffic. The operator of the Nonmotorized Vending Unit or Mobilized Vending  
566 Vehicle shall be responsible for properly disposing of such refuse, trash, and litter as  
567 would any business, and shall not place it in any public trash container, or in any private  
568 container without proper permission. Spills of food or food by-products shall be cleaned  
569 up by the ~~Street~~ Vendor operating the Nonmotorized Vending Unit or Mobilized Vending  
570 Vehicle, and no dumping of gray water on the streets is allowed.

571  
572 (n) Any signage or advertising signs shall be maintained by the ~~Street~~ Vendor and  
573 located adjacent to the Nonmotorized Vending Unit or Mobilized Vending Vehicle in such  
574 a manner as not to block or otherwise obstruct pedestrian or vehicular traffic.

575  
576 (o) The ~~Street~~ Vendor's license permit shall be displayed conspicuously at all times  
577 upon the vendor's vehicle, table, cart or container. Any and all additional licenses or  
578 permits required pursuant to law and this article shall be displayed conspicuously at all  
579 times upon the vendor's vehicle, table, cart or container.

580  
581 (p) Nothing in this Section shall be construed to prohibit the distribution or the sale  
582 of newspapers on the sidewalks or from a vehicle.

583 **DIVISION 3. MOBILIZED VENDING VEHICLES.**

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

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

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

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

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

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

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

~~———— (g) Mobilized Vending Vehicles shall be parked at all times in conformance with applicable parking and traffic regulations, including but not limited to payment of parking~~

631 meters during hours of operation, and may not hinder the lawful parking or operation of  
632 other vehicles. Mobilized Vending Vehicles may not bag parking meters to conduct street  
633 vending operations. Mobilized Vending Vehicles shall be permitted to park in loading  
634 zones between the hours of 6:00 p.m. and 4:00 a.m. Any opening or window from which  
635 business is conducted for all Mobilized Vending Vehicle must open toward the sidewalk,  
636 walkway or parking area. No window or opening from which business is conducted may  
637 open toward the street or traffic area.

638  
639 ~~————(h) A Mobilized Vending Vehicle may not be of a size or configuration as to interfere~~  
640 ~~with City or public use of any public right-of-way or impede ingress or egress by vehicles~~  
641 ~~or pedestrians.~~

642  
643 ~~————(i) An unobstructed clearance of at least 42 inches must be maintained between a~~  
644 ~~fire hydrant and any Mobilized Vending Vehicle.~~

645  
646 ~~————(j) An unobstructed clearance for pedestrian travel consistent with the Americans~~  
647 ~~with Disabilities Act must be maintained around any Mobilized Vending Vehicle.~~

648  
649 ~~————(k) A Street Vendor operating a Mobilized Vending Vehicle may not park such~~  
650 ~~Vehicle on a utility/manhole cover located upon an approved public right-of-way.~~

651  
652 ~~————(l) Street Vendors shall obey any lawful order of a police officer to move a Mobilized~~  
653 ~~Vending Vehicle to a different approved location, or to remove it entirely, if necessary to~~  
654 ~~avoid congestion or obstruction of a public right-of-way, or for the City's use of such right-~~  
655 ~~of-way for emergency purposes, construction or any other public benefit deemed~~  
656 ~~necessary or appropriate at the discretion of the officer, including but not limited to the~~  
657 ~~abatement of a nuisance.~~

658  
659 ~~————(m) Any power required for the Mobilized Vending Vehicle located on a public right-~~  
660 ~~of-way shall be self-contained and it may not draw its power from the public right-of-way,~~  
661 ~~except where approved by the city manager. Power cable or equipment may not be~~  
662 ~~extended across any public street, alley or sidewalk.~~

663  
664 ~~————(n) Street Vendors shall contain all refuse, trash, and litter within the Mobilized~~  
665 ~~Vending Vehicle or provide a small moveable trash can maintained by the Street Vendor,~~  
666 ~~and located adjacent to the Mobilized Vending Vehicle in such a manner as not to block~~  
667 ~~or otherwise obstruct pedestrian or vehicular traffic. The Street Vendor operating the~~  
668 ~~Mobilized Vending Vehicle shall be responsible for properly disposing of such refuse as~~  
669 ~~would any business, and may not place it in any public trash container, or in any private~~  
670 ~~container without proper permission. Spills of food or food by-products shall be cleaned~~  
671 ~~up by the Street Vendor operating the Mobilized Vending Vehicle, and no dumping of gray~~  
672 ~~water on the streets is allowed.~~

673  
674 ~~————(o) Any signage or advertising signs shall be maintained by the Street Vendor and~~  
675 ~~located adjacent to the Mobilized Vending Vehicle in such a manner as not to block or~~  
676 ~~otherwise obstruct pedestrian or vehicular traffic.~~

677  
678           ~~(p) The Street Vendor's license shall be displayed conspicuously at all times upon~~  
679 ~~the vendor's Mobilized Vending Vehicle. Any and all additional licenses or permits~~  
680 ~~required pursuant to law and this article shall be displayed conspicuously at all times upon~~  
681 ~~the vendor's Mobilized Vending Vehicle.~~

682  
683           ~~(q) Nothing in this Section shall be construed to prohibit the distribution or the sale~~  
684 ~~of newspapers from a motor vehicle.~~

685  
686       **CHAPTER 110 – TAXATION**  
687       **ARTICLE II – BUSINESS AND OCCUPATION TAX**

688  
689       **Sec. 110-63. - Exemptions.**

690  
691           (a) The provisions of this article shall not apply to:

692  
693               (1) Insurance companies which pay the state a tax upon premiums; provided, that  
694 such exemption shall not extend to that part of gross income of insurance companies  
695 which is received for the use of real property, other than property in which any such  
696 company maintains its office or offices, in the city, whether such income is in the form of  
697 rentals or royalties;

698  
699               (2) Nonprofit cemetery companies organized and operated for the exclusive benefit  
700 of their members;

701  
702               (3) Fraternal societies, organizations and associations organized and operated for  
703 the exclusive benefit of their members and not for profit; provided, that this exemption  
704 shall not extend to that part of gross income arising from the sale of alcoholic liquor, food  
705 and related services of such fraternal societies, organizations and associations which are  
706 licensed as private clubs under the provisions of W. Va. Code ch. 60, art. 7;

707  
708               (4) Corporations, associations and societies organized and operated exclusively  
709 for religious or charitable purposes; *provided that:* the City may impose its business and  
710 occupation tax on any activity of a corporation, association or society organized and  
711 operated exclusively for religious or charitable purposes only to the extent that the income  
712 generated by the activity is subject to taxation under the provisions of section 511 of the  
713 Internal Revenue Code of 1986, as amended;

714  
715               (5) Production credit associations, organized under the provisions of the federal  
716 Farm Credit Act of 1933; provided, that the exemptions of this section shall not apply to  
717 corporations or cooperative associations organized under the provisions of W. Va. ch. 19,  
718 art. 4;

719  
720               (6) Any credit union organized under the provisions of chapter 31 or any other  
721 chapter of the Code of West Virginia; provided, that the exemptions of this section shall

722 not apply to corporations or cooperative associations organized under the provisions of  
723 W. Va. ch. 19, art. 4;

724  
725 (7) Gross income derived from advertising service rendered in the business of  
726 radio and television broadcasting;

727  
728 (8) The gross income or gross proceeds of sale of a gasification or liquefaction of  
729 coal project in the demonstration, pilot or research states; provided, that prior to the  
730 commencement of operation of any such project, the tax commissioner of the state shall  
731 have first certified the project as eligible for such exemption; provided, further, that such  
732 exemption shall expire seven years from the date the project first receives gross income  
733 or gross proceeds from sales; and

734  
735 (9) The first five thousand dollars (\$5,000.00) of gross income or gross proceeds  
736 in each calendar year derived from sales or services by a ~~street vendor or itinerant vendor,~~  
737 as defined Section 18-1031 of this Code, shall be exempt from the tax imposed by this  
738 Article. The ~~street vendor or itinerant vendor~~ shall file a Business and Occupation tax  
739 return for such gross income or gross proceeds even if such revenue is exempt.

740  
741 (b) An organization is "charitable" for purposes of subdivision (4) of subsection  
742 (a) of this section if it satisfies both of the following criteria: (1) it is exempt from Federal  
743 Tax, under 26 U.S.C. § 501(c)(3), and (2) its purposes include relief of poverty,  
744 advancement of education, advancement of religion, promotion of health, governmental  
745 or municipal purposes, or other purposes that are beneficial to the community.