

ORDINANCE 2013-15

**AN ORDINANCE OF THE BOROUGH OF CHESTER,
MORRIS COUNTY, STATE OF NEW JERSEY, ADOPTING
CHAPTER 206 OF THE CODE OF THE BOROUGH OF
CHESTER TO PERMIT AND REGULATE MOBILE
VENDORS WITHIN THE BOROUGH**

WHEREAS, municipalities are empowered to make, amend, repeal, and enforce its ordinances pursuant to Statute (*N.J.S.A.* 40:48-1, et seq.); and

WHEREAS, municipalities are required by Statute to follow specific procedures for the passage of ordinances (*N.J.S.A.* 40:49-2 et seq.); and

WHEREAS, the Mayor and Council of the Borough of Chester have determined that there is a need and in the best interests of the Borough to permit and regulate mobile vendors within the Borough.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Chester, County of Morris, State of New Jersey that the Borough Code is hereby amended as follows:

SECTION 1: Chapter 206 of the Code of the Borough of Chester is hereby adopted to read in its entirety as follows:

§ 206-1 Definitions.

For the purpose of this Chapter, the terms used herein are defined as follows:

PERSON

Includes the singular and plural and shall also mean and include any person, firm, corporation or partnership or other fictitious person or de jure entity.

MOBILE VENDOR

A person selling or exposing for sale articles of merchandise, food, goods or services from a motor vehicle, cart, or movable facility or display, also known as a "huckster"; a person commonly referred to as a "peddler" or "hawker" who goes from place to place by traveling on the streets either by foot, wagon, motor truck, or any type of conveyance, or from house to house or door to door carrying goods, wares and/or merchandise, for the purpose of selling and delivering them to consumers; a person who goes from place to place by traveling on the streets or from house to house or door to door for the purpose of purchasing goods or merchandise, including the purchase of junk, household goods or discarded; a person also known as a "solicitor" or "canvasser," selling goods, merchandise or services by samples or taking orders for future delivery with or without accepting an advance payment for the goods. A holder of a vendor license shall not be considered a concessionaire nor operate as a concessionaire at a Special Event or Market licensed as a concessionaire for such Special Event or Market.

§ 206-2 License required, violations.

A. Except as otherwise provided herein, it shall be unlawful to engage in the activities of a Mobile Vendor, or to sell or dispose of, or offer to sell or dispose of, articles of merchandise, food, goods or services from a motor vehicle, cart, or movable facility or display; or to go from place to place by traveling on the streets either by foot, wagon, motor truck, or any type of conveyance, or from house to house or door to door and carrying goods, wares and/or merchandise, for the purpose of selling and delivering them to consumers; or to go from place to place by traveling on the streets or from house to house or door to door for the purpose of purchasing goods or merchandise, including the purchase of junk, household goods or discarded; or to sell goods, merchandise or services by samples or taking orders for future delivery with or without accepting an advance payment for the goods, without first obtaining a license as required by this Chapter and otherwise complying with all other applicable statutes, regulations and ordinances.

B. It shall be unlawful to violate this Chapter, the terms and conditions of any license issued hereunder, or any provision herein whether or not licensed hereunder.

§ 206-3 Mobile Vendor License.

There is hereby created a Mobile Vendor license which shall be subject to the foregoing:

(a) A vendor license may be issued only to a natural person whose application for said license shall be approved as set forth in this section.

(b) The number of vendor licenses issued shall not exceed four (4).

(c) In no event shall more than one vendor license be issued to any person.

(d) Each licensee, as of the date of adoption hereof, who is in good standing, under this section and its predecessor shall be permitted to renew said license by complying with § 206-7.

(e) All vendor licenses shall terminate December 31st of the year of issue.

(f) Completed license applications shall be filed with the Borough Clerk no earlier than October 1st and no later than November 1st of the calendar year prior to that for which a license is sought.

(g) If a license or licenses are available for a given calendar year, late application can be made within the same given calendar year, (i) upon good cause being shown by the applicant to the satisfaction of the Mayor and Council; and (ii) the request is made at least ninety (90) days prior to the first day of operation. The applicable fee may be pro rated based upon approval of the governing body. However, such licenses shall not be entitled to the benefits of § 206-7(B) of this Chapter.

§ 206-4 Applications.

A. An application for a mobile vendor license shall be submitted, under oath or affirmation, to the Borough Clerk with the applicable fee. This fee shall not be refundable and shall be used to defray the costs of investigation and processing. The application shall contain the following information:

(1) Name and address of the applicant;

(2) Description of the applicant;

(3) Name and address of the firm represented, if any, and an acknowledged statement from the firm certifying that the applicant is authorized to act as the employer's representative or a statement that the applicant is self-employed;

(4) The names, addresses and telephone numbers of three persons who have known the applicant for a period in excess of three years;

(5) The place of residence of the applicant for the three years immediately preceding the date of application;

(6) A brief description of the nature of the business and a description of the tangible personal property or services to be offered for sale or purchase. In the event the business tangible personal property or services are otherwise regulated by law, proof of compliance therewith shall be shown;

(7) If a vehicle is to be used, a description thereof including state of registration, license plate number, the name and address of the insurance carrier and insurance policy number;

(8) The number and places of arrests, the number and places of convictions for misdemeanors, disorderly persons offenses, or crimes and the nature of the offenses for which the applicant has been convicted. This shall include violation of ordinances other than traffic violations;

(9) If the applicant is a natural person, two current passport photographs showing the applicant's full face. The photographs shall be affixed to the application;

(10) Proof of tax identification number issued by the State of New Jersey to the vendor;

and
(11) Proof of current sales tax filing with the State of New Jersey, pursuant to N.J.S.A. 40:52-1.3 by the vendor.

B. Each applicant for a mobile vendor license, if the applicant is a natural person, shall be fingerprinted using an agency chosen by the Chester Borough Police Department. The Chief of Police shall, verify the information included on the application and respecting the moral character and business background of the applicant. The Chief of Police is authorized to receive state criminal history record information from the Division of State Police, State Bureau of

Identification, or other authorized source, for use in considering the suitability of all applicants covered under this Chapter. All requested criminal history record checks will be subject to payment of the required user fee by the applicant.

C. All applications for a vendor license must be submitted to the Borough Clerk in complete form, no later than 30 days after the adoption hereof and no earlier than October 1 and no later November 1 of the calendar year prior to that for which a license is sought, completed applications for the next calendar year's license.

§ 206-5 Approval or rejection of application.

A. Upon verification of the application for a mobile vendor license by the Administrator and the Chief of Police, and such other investigation as necessary for the protection of the public good, and upon payment of the applicable licensing fee, the Clerk may issue the license.

B. A license shall not be issued to any person who has been convicted of a crime, misdemeanor, or other offense involving moral turpitude; who has made a misrepresentation or false statement in his application, or who has otherwise been found to be of unsatisfactory character or business responsibility by the Administrator.

C. In the event of the refusal of the issuance of such license, the Mayor and Council, on written request of the applicant, shall conduct a hearing to determine whether the license should be granted under this chapter. Such request must be filed with the Borough Clerk no later than seven days after the rejection of the application.

§ 206-6 Issuance; records; nontransferability.

A. Should the number of approved applications for a mobile vendor license exceed the number of licenses permitted licenses may be issued on a random basis by virtue of a lottery system with the available number of licenses being drawn by the Mayor by lot from the approved applications.

B. All licenses shall be issued on forms drawn by the Clerk in accordance with this section. Records of all licenses shall be maintained by the Clerk in such a manner so as to identify the name of the licensee, the activity license, the location of the activity licensed, the amount of fee paid and the goods, if any, involved. All licenses shall be issued under the signature of the Borough or a facsimile thereof and the seal of the Borough.

C. A record of all current licenses issued shall be kept by the Borough Clerk and Police Department.

D. All licenses issued under this Chapter shall authorize only the person named in said license to engage in the activity designated thereon. The license shall not be transferable from the person to whom issued to any other person.

§ 206-7 Fees; renewals.

A. The fees for an application and/or license required by this Chapter shall be as established in Ch. 127, Art. I, Municipal Fees.

B. A mobile vendor license may be renewed without formal application or payment of an application fee for a period of one (1) year upon payment of the required license fee, no earlier than October 1 and no later than November 1 of the calendar year prior to that for which a license is sought, and upon completion of a short form renewal application certifying that the information contained in the original application is still true. Renewal shall be subject to the provisions of § 206-9.

§ 206-8 Revocation or suspension of license.

A. Licenses issued under this chapter may be revoked by the Administrator for any of the following causes:

(1) Misrepresentation or false statement contained in the application.

(2) Misrepresentation or false statement made in the course of carrying on the activities herein.

(3) Conviction of any crime of misdemeanor involving moral turpitude.

(4) Conducting the licensed business in an unlawful manner in violation of this chapter, state or federal statutes or regulations, or in such manner as to cause breach of the peace, create a nuisance or constitute a menace to the health, safety or general welfare of the public.

(5) A determination, after investigation, that the applicant's moral character or business responsibility are unsatisfactory.

(6) As set forth in §§ [206-9](#) and [206-10](#).

B. All persons whose licenses have been revoked shall have the right of appeal to the Mayor and Council by filing a written request within seven days to the Borough Clerk for such hearing. The Mayor and Council shall within 30 days after receipt of the request hold a hearing. At the conclusion of said hearing, the Mayor and Council shall affirm or set aside the revocation of the license. The decision of the Mayor and Council on such appeal shall be final and conclusive.

§ 206-9 Mobile [Vendor regulation.](#)

A. A mobile vendor shall not engage in any activity permitted by this Chapter before the hour of 8:00 a.m. or after the hour of 8:00 p.m.

B. A mobile vendor may use for the purpose of displaying or selling tangible personal property, merchandise or services, a vehicle cart, stand, or movable facility or display. The dimensions of said vehicle, cart, stand, or movable facility or display shall not exceed four feet in width, six feet in length and eight feet in height including an umbrella.

C. A mobile vendor shall not use an umbrella unless the same shall be attached to a vehicle, cart, stand, or movable facility or display, nor use an umbrella with a diameter or maximum horizontal dimension greater than 6 1/2 feet.

D. A mobile vendor shall not use, set up, place, or permit the use of any table, crate, carton, or structure of any kind to increase the selling capacity of his vehicle, cart, stand or movable facility or display.

E. A mobile vendor shall not stand, park, display, maintain or allow to be maintained any vehicle, cart, stand, or movable facility or display for the purpose of displaying or selling tangible personal property, merchandise, or services in violation of any Borough ordinance nor within 25 feet of an intersection.

F. A mobile vendor shall not stand, park, display, maintain or allow to be maintained any vehicle, cart, stand, or movable facility or display for the purpose of displaying or selling tangible personal property, merchandise or services within 10 feet of any location where the curb has been depressed to facilitate pedestrian or vehicle movement.

G. A mobile vendor shall not stand, park, display, maintain or allow to be maintained any vehicle, cart, stand or movable facility for the purpose of displaying or selling tangible personal property, merchandise or services within 15 feet of any fire hydrant, crosswalk or driveway.

H. A vendor shall not stand, park, display, maintain or allow to be maintained any vehicle, cart, stand, or movable facility or display for the purpose of displaying or selling tangible personal property, merchandise or services within a fifteen-foot radius from the entrance to any building, store, theater, library, school, museum, movie house, sports arena, or other place of public assembly.

I. A mobile vendor shall not stand, park, display, maintain or allow to be maintained any vehicle, cart, stand, or movable facility or display for the purpose of displaying or selling tangible

personal property, merchandise or services within that area adjacent to and extending directly out from the entrance of any above-referenced structures to the public street.

J. A mobile vendor shall not stand or park a vehicle, cart, stand, or movable facility or display upon any public street or sidewalk, for the purpose of displaying or selling tangible personal property, merchandise or services, in such a way as would:

- (1) Substantially restrict, obstruct, interfere with or impede the pedestrian's right-of-way.
- (2) Substantially restrict, obstruct, interfere with or impede the ingress or egress from the abutting property.
- (3) Create or become a public nuisance.
- (4) Cause or increase traffic congestion.

K. A mobile vendor shall not stand, park, display, maintain or allow to be maintained any vehicle, cart, stand, or movable facility or display for the purpose of displaying or selling tangible personal property, merchandise or services in violation of Title 39 of N.J.S.A. or the ordinance of the Borough of Chester.

L. A mobile vendor shall not shout, cry out, blow a horn, ring a bell or use any sound device or sound-amplifying system upon any of the streets, alleys, parks, or other public or private places within the Borough or in any area contiguous to the Borough whereby a public nuisance shall be created in the Borough.

M. A mobile vendor shall not have any exclusive right to any one place upon any sidewalk or any street and shall not be permitted to operate in a congested area where vendor operation may impede or inconvenience the public. For the purpose of this Chapter the judgment of the police officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

N. Signs must be imprinted on or permanently attached to a cart and may not exceed four square feet of total signage.

O. A license issued under this section or under *N.J.S.A.* 45:24-9 and 10 shall be posted in public view on the vendor's vehicle, cart, stand or movable facility and shall be exhibited to any police officer or to any official of the Borough upon request and to any person solicited prior to such solicitation.

P. A mobile vendor shall not be considered a concessionaire nor operate as a concessionaire at a Special Event (Chapter 203) or Market (Chapter 202) within a park or on private property unless licensed as a concessionaire for such Special Event or Market.

Q. Nothing herein stated shall be construed to exempt any person from complying with the requirements of the zoning

§ 206-10 Sale of foods/beverages.

A. A mobile vendor shall not sell any foods, beverages, ice cream, confections or related commodities without obtaining a valid food handler's permit issued by the Chester Borough Board of Health.

B. The equipment used or employed by any mobile vendor in the sale of ice cream, foods, beverages, confections and other related commodities shall be maintained in a clean and sanitary manner and be subject to inspection by the Board of Health or its authorized agents in accordance with the provisions of this chapter and the ordinances of the Board of Health of the Borough of Chester. Any violation found and not immediately corrected shall be grounds for revocation of the license.

C. Notwithstanding the penalties set forth in this chapter, any person violating this Chapter shall be liable for the penalties set forth in Chapter 235, Board of Health General Provisions, Article III, General Penalty.

§ 206-11 Discrimination.

No mobile vendor shall issue to any individual, organization, or entity who shall directly or indirectly exclude, withhold or deny, any person of any advantage, privilege, membership, or right, or otherwise discriminate against said person on account of race, creed, color, national origin, ancestry, marital status, or sex or otherwise as prohibited by law. Nor shall the Borough Clerk or his agent refuse to issue a license on account of race, creed, color, national origin, ancestry, marital status, or sex or otherwise as prohibited by law.

§ 206-12 Exceptions and limitations.

The following shall be exempt from all provisions hereof except §§ [206-1](#), [206-2](#), [206-4](#), [206-5](#), [206-7](#), [206-8](#) and [206-9](#) with relation to violation of applicable sections hereof, violation of which shall be unlawful:

A. Federal census takers and polls or surveys taken pursuant to federal, state or local laws.

B. Any veteran or volunteer fireman who holds a special license issued pursuant to *N.J.S.A.* 45:24-9 and -10; provided, however, such licensee shall notify, in writing; the Chief of Police of the Borough prior to any soliciting within the Borough, the dates and approximate area in which such licensee intends to solicit. Such notification shall also include the licensee's license number, date issued and county where issued.

C. Any nonprofit, religious, charitable, civic, or veteran organization service, club, volunteer fire or first-aid company located in, has a substantial membership from, or provides substantial service to the Borough or its inhabitants, soliciting in its name, or for a bona fide not-for-profit purpose money, donations, or financial assistance of any kind or selling or distributing any item of literature or merchandise for which a fee is charged and which sale or distribution does not constitute a Special Event or Market as defined in this Code; provided, however, that organization, service, club, volunteer fire or first-aid company procures from the Borough Clerk a special permit by submitting to the Borough Clerk an application containing:

- (1) Name and address of organization;
- (2) Purpose for which the special permit is requested;
- (3) Names and addresses of the officers and directors of the organization;
- (4) Period and place during which solicitation is to be carried on; and
- (5) Name, address and position in nonprofit organization of person making the application.

D. Upon being satisfied that such person, organization or association is bona fide, the Borough Clerk shall issue a special permit and identification cards without charge for the specified period.

E. Any person engaged in any activity, the purpose of which is to aid or promote the nomination, election, or defeat of any candidate or candidates for political office, or to aid or promote the passage or defeat of the public question in any election, or which seeks to influence the content, introduction, passage or defeat of any legislation.

§ 206-13 Violations and penalties.

Any person violating any of the provisions of this Chapter shall be liable for the penalty(s) stated in Chapter [1](#), General Provisions, Article [III](#), General Penalty, which in no event shall be less than \$500 and upon conviction shall forfeit such license issued hereunder and the right to renew such a license and shall be ineligible for the issuance of a license hereunder for a period of one year from the date of conviction.

§ 206-14 Effect.

A. All licenses issued prior to the adoption of this Chapter shall not be affected by this Chapter, but all subsequent license applications must comply with all the provisions of the Chapter.

B. All persons not required to be licensed previously, but who are required by this Chapter to apply for a license, must obtain a license upon its adoption

SECTION 2. If any Chapter, Article, Section or Subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction such decisions shall not affect the remaining portions of this Ordinance.

SECTION 3: All ordinances or rules or regulations of the Borough of Chester, which are inconsistent with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 4: This ordinance shall take effect upon passage and publication according to law.

Dated: _____

Robert Davis, Mayor

Attest:

Valerie A. Egan, Borough Clerk

LEGAL NOTICE OF FINAL ADOPTION

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Chester, in the County of Morris, State of New Jersey, held in the municipal building on the 15th day of October 2013, and the same came up for final passage at a meeting of the said Borough Council on the 4th day of November 2013 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law. By order of the Borough Council of the Borough of Chester, County of Morris and State of New Jersey.

Valerie A. Egan, Municipal Clerk