PUBLIC SAFETY COMMITTEE

Conference Call #: 1-929-205-6099
Access Code: 92103951294

May 21, 2021
2:00 p.m.

Mayor John J. Tecklenburg
Councilmember Peter Shahid, Chair
Councilmember Michael Seekings, Vice Chair
Councilmember Robert Mitchell
Councilmember Kevin Shealy

AGENDA

1. Moment of Silence

2. Minutes –

   April 26, 2021

3. An ordinance to amend the Code of City of Charleston, South Carolina, Chapter 17, Article V, Division 8-Vending, Section 17-121 to add a new Section 17-121 (b), Rules and Regulations for mobile street vendor vehicles operating on private property in the Central Business District.

4. An ordinance to amend the Code of the City of Charleston, South Carolina, Chapter 21, to add a new Section 21-114 to establish a youth curfew in the Central Business District.

5. Adjournment

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.
AN ORDINANCE

TO AMEND THE CODE OF CITY OF CHARLESTON, SOUTH CAROLINA, CHAPTER 17, ARTICLE V, DIVISION 8-VENDING, SECTION 17-121 TO ADD A NEW SECTION 17-121 (B), RULES AND REGULATIONS FOR MOBILE STREET VENDOR VEHICLES OPERATING ON PRIVATE PROPERTY IN THE CENTRAL BUSINESS DISTRICT.

WHEREAS, in light of recent events of social upheaval in the late hours of the evening within the Central Business District in the City of Charleston;

WHEREAS, additional efforts are necessary to control the Central Business District in the late hours to protect the lives of residents, visitors, patrons and employees of restaurants and bars, and City staff and officers working within the District and to promote public safety overall on the peninsula;

WHEREAS, as a part of those efforts to manage crowd control after 1a.m., the City needs authority to control the operational hours of mobile food vendors operating on private property within the Central Business District after bars and restaurants close;

WHEREAS, the City is authorized and desires to adopt amendments to its Ordinances to promote these goals; and

THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS IN CITYCOUNCIL ASSEMBLED:

Section 1. Chapter 17, Section 17-121 of the Code of the City of Charleston is hereby amended by adding to the existing Section 17-121 a subsection titled “A. Vending of Food, Drink or Reading Material within Public Rights-of-Way” as follows:

“Sec. 17-121. - Vending of food, drink or reading material.

A. Vending of Food, Drink or Reading Material within Public Rights-of-Way.

(1) It shall be unlawful for any person to engage in the business of selling food or drink with any alcohol contained therein and reading material from a stationary cart or any other stationary vehicle or device that is placed, parked or stopped in or upon any city street or in any public parking space, public right-of-way or sidewalk next to any city street or on any other public property in the Old and Historic District of the City of Charleston except in such
area as shall be designated and marked by the department of traffic and transportation for such purpose and as is approved by city council.

(2) The director of traffic and transportation shall survey the Old and Historic District and report to city Council, on at least an annual basis, those areas in the nonresidential portions of the Old and Historic District which are appropriate for accommodating the location of stationary vendors selling food or drink with any alcohol contained therein and reading material, taking into consideration factors such as vehicular and pedestrian circulation, access, availability of parking, street and/or sidewalk width and such other factors as he may deem necessary to protect the public health, welfare and safety; provided, however, that under no circumstances shall a vendor space designated for the sale of food or drink with any alcohol contained therein and reading material be located within one hundred (100) feet of the entrance to a church or within one hundred (100) feet of a residentially designated district; and provided further that when the director of traffic and transportation annually surveys the nonresidential portions of the Old and Historic District to determine the appropriate location of any vendor space, he shall seek to avoid locating stationary street vendors who sell food or drink with any alcohol contained therein and reading material unreasonably close to existing restaurants or to other designated vendor spaces.

(3) Vendor spaces designated for the sale of food or drink with any alcohol contained therein and reading material from stationary carts or other vehicles or devices shall be available to interested vendors on a daily basis, 7:00 a.m. to 7:00 p.m., on a first come, first serve basis unless such spaces are franchised or unless designated by city council as not being available to interested vendors on a daily basis, 7:00 a.m. to 7:00 p.m. on a first come, first serve basis if not franchised in accordance with this section.

(4) No person shall engage in the sale of food or drink with any alcohol contained therein and reading material from a stationary cart or other vehicle or device from a vendor space unless:

(a) He has secured a business license, a peddler's permit for himself and any employee who shall operate his stationary cart or other vehicle or device approved by the police department and issued by the business license division, and a decal from the business license division displayed as follows:
   i. The decal shall be prominently displayed on the stationary cart or other vehicle or device from which food or drink with any alcohol contained therein and reading material is dispensed; and
   ii. The peddler's permit issued to the vendor or his employee operating the stationary cart or other vehicle or device and the vendor's business license shall either be prominently displayed on the vendor's stationary cart or other vehicle or device or available from the vendor or his employee operating the stationary cart or other vehicle or device on demand; and

(b) He can and does confine all operations incident to the sale of food or drink with any alcohol contained therein and reading material within the perimeter of the vendor space; and

(c) He has paid such fees as may be set by city council for the privilege of utilizing such vendor space(s); and
(d) He has filed with the director of traffic and transportation a duly executed indemnification/hold harmless agreement with the city concerning the use of the designated vendor space.

(5) Nothing herein shall be construed to prevent the director of traffic and transportation, at the direction of city council, from designating vendor spaces on a temporary basis as and when city council may deem appropriate.

(6) Authority of the director of traffic and transportation regarding bidding and franchising procedures for all vendor spaces designated for the sale of food or drink with any alcohol contained therein and reading material is delineated as follows:

(a) The director of traffic and transportation shall have the authority to recommend to the committee on traffic and transportation that any or all vendor spaces designated for the sale of food or drink with any alcohol contained therein and reading material be made available only pursuant to a competitive bidding process and the execution of a franchise agreement with the successful bidder. The city may reject any or all bids.

(b) In determining whether such a recommendation is warranted, the director of traffic and transportation shall consider whether the demand for any vendor space from competing vendors is, or could be, disruptive to the public order or has resulted, or could result, in undue burden on enforcement officials.

(c) Upon the committee on traffic and transportation approving the franchising of certain vendor spaces, the director of traffic and transportation, with input from corporation counsel, shall draft bid specifications, which shall include, at a minimum:

(i) The location of the vendor space proposed to be franchised;

(ii) A requirement of such minimum bid as shall be approved by the ways and means committee;

(iii) A provision to allow for the payment of the franchise fee on at least a semiannual basis;

(iv) A limitation on the term of the franchise agreement to no more than one year;

(v) A requirement for the acquisition of public liability insurance in such amounts as shall be recommended by corporation counsel;

(vi) A prohibition against the assigning or subletting of any vendor space or franchise agreement;

(vii) A requirement that the successful bidder acquires and maintains a current City of Charleston business license;

(viii) A provision requiring the successful bidder to comply and maintain compliance with applicable rules and regulations as may be promulgated by the South Carolina Health Department; Except as prohibited by subsection 17-121(3) a limitation on the hours of operation from 7:00 a.m. to 7:00 p.m., with a provision allowing for the franchised vendor space to be available to other licensed vendors for any day during the term of the franchise agreement that the successful bidder is not open for business in the franchised vendor space by 11:00 a.m., or if he thereafter vacates the franchised vendor space during the day;

(ix) A requirement that the successful bidder remove all vending apparatus from the vendor space at the end of each day and to otherwise maintain the area in and around the vendor space in a clean condition, free of trash and rubbish;

(x) A requirement forbidding meter feeding or encroaching on any property outside the vendor space;
(xi) Provisions for the suspension or cancellation of the franchise agreement;
(xii) A provision requiring the use of recyclable or biodegradable containers; and
(xiii) A provision allowing the city to reject any or all bids not deemed by it to be in the best interest of the city.
(d) No bid specifications shall be put out for bid until they have first been approved by the committee on ways and means.
(7) Authority of the department of traffic and transportation regarding the lawful and/or appropriate placement of stationary carts for the sale of food or drink with any alcohol contained therein and reading material in areas outside of the Old and Historic District is delineated as follows:

(a) In areas outside the Old and Historic District, the sale of food or drink with any alcohol contained therein and reading material from stationary carts or other stationary vehicles that are placed, parked or stopped in or upon any other public property shall be unlawful, except in such areas as may be designated and marked by the department of traffic and transportation for such purposes.
(b) In determining whether a location outside the Old and Historic District is appropriate to accommodate a stationary cart or stationary vehicle selling food or drink with any alcohol contained therein and reading material, the director of traffic and transportation shall consider the vehicular and pedestrian circulation around the proposed space, the availability of parking, street and/or sidewalk width, access and such other factors as he may deem necessary to protect the public health, safety and welfare; provided however, that the director of traffic and transportation shall not designate a space for the sale of food or drink with any alcohol contained therein and reading material within one hundred (100) feet of the entrance to a church or within one hundred (100) feet of a residentially designated district; and provided further, the director of traffic and transportation shall seek to avoid having stationary street vendors selling food or drink with any alcohol contained therein and reading material unreasonably close to existing restaurants or other designated street vending spaces.
(c) The director of traffic and transportation shall have the authority to recommend to the committee on traffic and transportation that any of the spaces designated for the sale of food or drink with any alcohol contained therein and reading material pursuant to the provisions of this section be made available only pursuant to a competitive bidding process and the execution of a franchise agreement with the successful bidder. The city may reject any or all bids. In determining whether such a recommendation is warranted, the director of traffic and transportation shall consider whether the demand for the space or spaces is, or could be, disruptive to the public order or has resulted, or could result, in undue burden on enforcement officials. If such a recommendation is made, and thereafter approved by the committee on traffic and transportation, the director of traffic and transportation, with input from corporation counsel, shall prepare bid specifications incorporating the provisions of this section.
(d) No bid specifications shall be put out for bid until they have first been approved by the committee on ways and means.
(e) Any spaces not franchised shall be available to licensed vendors pursuant to the criteria set forth in this section except as prohibited by subsection 17-121(3).
**Section 2.** Chapter 17, Section 17-121 of the Code of the City of Charleston is hereby amended by adding a new subsection titled **"B. Vending of Food, Drink or Reading Material on Private Property within the Central Business District"** as follows

**B. Vending of Food, Drink or Reading Material within the Central Business District.**

(1) Any sale of food, drink, food products containing alcohol, or alcoholic beverages from a mobile food vendor vehicle that is placed, parked or stopped on private property in the Central Business District of the City of Charleston shall be subject to the following regulations in their operation:

   (a) No mobile food vendor shall operate within 250 feet from the door of a lawfully established eating establishment that is actively open for business serving customers, unless the food truck vendor provides documentation, which is signed by the restaurant owner, that the restaurant owner interposes no objection to a closer proximity. If a restaurant opens within the 250-foot zone after the mobile food vendor has their annual permit, the food truck vendor may remain in that location until the following annual permit is due at which time they would have to obtain a written permission from the new restaurant owner.

   (b) Mobile food vendors will only be permitted to locate in areas zoned GB, LB, MU, and UC.

   (c) A mobile food vendor operating under this division shall submit to the city an application that must include:

      (i) The written permission from the private property owner for each location, and lease agreement, if any.

      (ii) A list of all request sites to include the property owner and physical address.

(1d) A mobile food vendor may operate outside the hours of 8:00 a.m. to no later than 1:30 a.m. At the end of each business day’s operation, the vendor shall remove from the parcel the mobile food vendor vehicle and all materials associated with the business.

(1e) No mobile food vendor shall sound any device or play music which produces an offensive or loud noise to attract customers, and vendors shall not use any public address system on the vehicle to broadcast or advertise products.

(1f) for purposes of this section, mobile food vendor is defined as any person selling food from a mobile vehicle. Mobile food vendor vehicle is defined as a self-contained, motorized vehicle equipped mounted food service unit that returns daily to its base of operations as approved by DHEC and is used for either the preparation of the sale of food products, or for both.
Section 3. This ordinance shall become effective immediately upon ratification.

Ratified in City Council this ___ day of _____ in the Year of Our Lord, 2021 in the _____ Year of Independence of the United States of America.

By: ________________________________
    John J. Tecklenburg
    Mayor, City of Charleston

ATTEST: ________________________________
        Jennifer Cook
        Clerk of Council
AN ORDINANCE

TO AMEND THE CODE OF THE CITY OF CHARLESTON, SOUTH CAROLINA, CHAPTER 21, TO ADD A NEW SECTION 21-114 TO ESTABLISH A YOUTH CURFEW IN THE CENTRAL BUSINESS DISTRICT.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS IN CITY COUNCIL ASSEMBLED:

Section 1. Chapter 21, of the Code of the City of Charleston is hereby amended by Reserving Sections 21-115 through 21-125 which shall read as follows:

"Sects. 21-115—21-125. — Reserved"

Section 2. Chapter 21, of the Code of the City of Charleston is hereby amended by adding thereto Section 21-114 with the following underlined words and phrases which shall read as follows:

Sec. 21-114 Central Business District Youth Curfew

(a) Findings. Businesses located in the Central Business District that are open after 12:00 a.m. are primarily those that sell alcohol, beer and wine and cater to persons of legal drinking age. Juveniles that come to the Central Business District in the late night to early morning hours are unable to enter most business establishments. As a result, they end up loitering in the area and adding to the congestion on already crowded streets and sidewalks. Juveniles also contribute to criminal activity in the area, including but not limited to, assault and battery, robbery, narcotics offenses, and underage drinking. Recently large groups, which included juveniles engaged in a late-night brawl that resulted in several persons going to the hospital for treatment of gunshot and stab wounds. Therefore, as juveniles, with few exceptions, have no purpose for being in the Central Business District after 12:00 a.m., are contributing to the congestion on the streets and sidewalks and are adding to crime in the area the mayor and city council deem it necessary to prescribe a Central Business District Youth Curfew.

(b) Definitions.

1. Central Business District: the area identified in the map attached hereto, entitled "City of Charleston Central Business District, dated 7-1-2020," which as provided in City Code § 23-48(a) "will be reviewed from time to time by city council" and "shall be made available to the public online at the website for the business and neighborhood services division of the department of planning, preservation, and sustainability."
2. Establishment: any privately-owned place of business operated for a profit, to which the public is invited, or to any non-profit organization licensed to sell or serve beer, wine or other alcoholic beverage, including, but not limited to any place of amusement or entertainment. With respect to such establishment, the term "operator" shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that establishment.

3. Juvenile: a person under the age of seventeen.

(c) Prohibition.

1. It shall be unlawful for a juvenile to remain in or upon any public place, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the Central Business District between the hours of 12:00 a.m. and 6:00 a.m.

2. It shall be unlawful for a juvenile's parent or person responsible for the juvenile's welfare as defined by South Carolina Code § 63-7-20 (18) to knowingly permit, allow or encourage such minor to violate subsection 1.

3. It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of subsection 1.

4. It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a juvenile to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the Charleston Police Department that a juvenile was present at the establishment during curfew hours and refused to leave.

5. It shall be unlawful for any person, including a juvenile, to give a false name, date of birth, address, or telephone number to any officer investigating a possible violation of this division.

(d) Exceptions:

1. The juvenile is accompanied by a parent or person responsible for the juvenile's welfare as defined by South Carolina Code § 63-7-20 (18); or

2. The juvenile is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop; or

3. The juvenile is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop.

(e) Severability: If any subsection, sentence, clause, phrase, or word of this Section be for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such declaration shall not affect the validity or the effectiveness of the remaining portions of this section or any part thereof which can be given meaning without the offensive subsection, sentence, clause, phrase or word.
Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of
____________ in the Year of Our Lord, 2021,
and in the ____th Year of the Independence of
the United States of America

____________________________________
John J. Tecklenburg, Mayor

ATTEST:

____________________________________
Jennifer B. Cook, Clerk of Council