TOWN OF CHARLESTOWN
NOTICE OF CONTINUANCE OF A PUBLIC HEARING
ORDINANCE AMENDMENT

NOTICE IS HEREBY GIVEN that a Public Hearing relative to a proposed amendment to the **Code of the Town of Charlestown, Ordinance No. 384, Amending Chapter 128, Hawkers, Peddlers and Solicitors** has been continued to December 9, 2019 at 7:00 p.m. at the Charlestown Town Hall, 4540 South County Trail, Charlestown RI 02813, when all interested parties may attend and be heard for or against these amendments.

Reference is made to that full advertisement of November 4, 2019.

Information relative to the above may be obtained at the Town Clerk's Office, 4540 South County Trail, Charlestown, RI 02813 during normal business hours and at www.charlestownri.org.

Proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any such alteration or amendment must be presented for comment at said hearing.

PER ORDER OF THE CHARLESTOWN TOWN COUNCIL
Amy Rose Weinreich, CMC
Town Clerk

The public is welcome to any meeting of the Town Council. If communication assistance (readers/interpreters/captions) is needed or any other accommodation to ensure equal participation, please call 711-364-1240 at least three (3) business days prior to the meeting.

PUBLIC NOTICE
TOWN OF CHARLESTOWN

Notice is hereby given that the Town Council of the Town of Charlestown will conduct a public hearing, open to the public, on November 12, 2019 at 7:00 p.m. at the Charlestown Town Hall, 4540 South County Trail on a proposed new ordinance to the Code of Ordinances. Opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance. The proposed new ordinance is under consideration and may be adopted and/or altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the public hearing. The proposed new ordinance is available for review at the Town Clerk's Office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Holidays and on the Town's website.

ORDINANCE NO. 384
AN ORDINANCE AMENDING CHAPTER 128 – HAWKERS, PEDDLERS AND SOLICITORS

Note: Words set as ~~strikeover~~ are to be deleted from the ordinance; words set in <u>underline</u> are proposed to be added to the ordinance.

Section 1. Be it ordained by the Town Council of the Town of Charlestown that Chapter 218 of the Code of Ordinance, Town of Charlestown entitled Zoning is amended as follows:

> See Exhibit A attached hereto and incorporated herein by reference as if set forth in its entirety.

Section 2. The Town Clerk is hereby authorized to cause said changes to be made to Chapter 128 of the Town of Charlestown's Code of Ordinance.

Section 3. This ordinance shall take effect immediately upon passage.

Attested to by: Passed by the Town Council on:

_____ _____

Amy Rose Weinreich, CMC Town Clerk

EXHIBIT A

Chapter 128. Hawkers, Peddlers and Solicitors

[HISTORY : Adopted by the Town Council of the Town of Charlestown 9-11-2006 by Ord. No. 300.1[1]1 Amendments noted where applicable.]

GENERALREFERENCES

Flea markets - See Ch. **114.**
Licenses and permits - See Ch. **147.**
Noise - See Ch. **152.**
Peace and good order- See Ch. **162.**
Yard sales - See Ch. **213.**

[1] *Editor's Note: This ordinance also repealed former Ch. 128, Hawkers, Peddlers and Solicitors, adopted 8-14-1979 as Art. II of Ch.* ***6*** *and Sec.* 7-275 *of the Code of Ordinances, as amended.*

Article I. Hawkers and Peddlers

§ 128-1. Purpose.

The purpose of this article is to protect the public health, safety and general welfare through the regulation of hawkers, peddlers and solicitors in the Town of Charlestown.

§ 128-2. Definitions.

Pursuant to Chapter 11 of Title 5, Section 1.1 of the General Laws, as amended, the following words shall have the following meaning when used in this chapter.

A. "Door to door salespersons" shall mean persons who deliver goods, wares or merchandise to customers for which payment has already been made or is to be made at the time of delivery.

B. "Hawker" shall mean any person selling or offering for sale any goods, wares or merchandise, including any food or beverage on any public street, highway or public right of way in a stationary location.

C. "Peddler" shall mean any person selling or offering for sale any goods, wares or merchandise~~, including any food or beverage,~~ from a vehicle, cart or any other conveyance which is not stationary.

§ 128-3. License required.

No person shall sell or offer for sale any goods, wares, merchandise, as a hawker or peddler in the Town of Charlestown without first having obtained a hawker or peddler license from the Town Council, unless specifically exempted pursuant to Chapter 11 of Title 5, Section 18 of the General Laws, as amended.

§ 128-4. Application for license to be made; license issuance.

A. A person desiring a hawker or peddler license shall make application in writing to the Town Council. Application shall be made upon a form to be supplied by the Town Clerk. Such application must include the following information:

(1) Proof that he or she has been issued a permit to make sales at retail by the State Division of Taxation and approval from the State Health Department, if applicable.

(2) Written approvals of the Police Department, Building Official's Office and any other applicable Town Department.

(3) The exact days and hours of operation for the proposed license.

(4) A detailed description of the nature of goods and/or articles to be sold.

(5) The exact location of the proposed business, to include the plat and lot number where the business is to be located on property owned by other than the applicant, a sworn statement must be obtained by the owner consenting to the application.

(6) The current zoning designation of the property.

B. It is further required that any person applying for a hawker or peddler license under the provisions of this Chapter shall sign a hold harmless agreement indemnifying the Town of Charlestown, its officers, agents and employees from any liability arising out of or in the course of his or her business or the granting of a license for same.

C. Upon receipt of a complete application for a hawker or peddler license, the Town Council shall place the application down for consideration at their next regular Town Council meeting agenda for action. The Town Council may issue a license only if, after a hearing thereon and in their sole discretion, that they find that the requested license will not disrupt the general health, safety, welfare or morals of the Town and pursuant to the requirements of Chapter 11 of Title 5, Section 1.1 of the General Laws, as amended, and as otherwise set forth in Section 128-4, herein.

D. Persons licensed under this Chapter shall remove all paper, ~~food,~~ cardboard, wood or plastic containers, wrappers or any similar type of litter deposited by the licensee or his/her customers. The licensee shall provide and use a waste container, of not less than ten-gallon capacity and not more than thirty-gallon capacity for the placement of such litter. The licensee shall remove all waste and litter generated by the licensee and his or her customers on a daily basis.

E. The Town Clerk, upon a decision of the Town Council to grant a hawker or peddler license shall issue the license, the term of which shall expire on December ~~31~~ 1 in the year when issued.

§ 128-5. Investigation of applicant; grounds for denial or revocation of license.

A. Upon receipt of the application by the Town Clerk's Office, the Chief of Police or his or her designee shall undertake and complete within 30 days an investigation of the

applicant's business and moral character and of the statements made in the application, as well as the applicant's proposed location.

B. The Town Council, may, after a hearing thereon and in its sole discretion, either approve, reject or revoke such license or any application therefor. In reviewing any application for the issuance, renewal or revocation for a hawkers and/or peddlers license, the Town Council may consider any or all of the following factors:

(1) The potential for traffic congestion.

(2) The need in the community for the proposed license.

(3) The zoning of the parcel in question and its compatibility with the proposed application.

(4) The unsatisfactory moral character or business responsibility of the applicant.

(5) Any other conditions which may prove to be inimical to the public health, safety and welfare of the Town.

C. A license issued under this article may be revoked by the Town Council after notice and hearing for, but not limited to, any of the following causes:

(1) Fraud, misrepresentation, omission or false statement contained in the license application.

(2) Fraud, misrepresentation or false statement made by the person in the course of carrying on his or her business as a peddler or hawker.

(3) Any violation of this Chapter.

(4) Conviction of any crime or misdemeanor involving moral turpitude.

(5) Conducting the business of hawking or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

D. Persons whose license has been revoked under this section may not reapply for a license within one year of the date of revocation.

§ 128-6. License fees.

The fee for a license issued pursuant to this Chapter shall be fifty dollars ($50.00).

§ 128-7. Exemptions and limitations.

A. No license is required from persons selling farm or garden produce, including flowers, and persons selling works of art or crafts of their own making at an art or craft show or exhibit, are not hawkers or peddlers and are not subject to the licensing requirements of this chapter.

B. No license is required of any person selling religious books and publications on behalf of a bible, tract or other religious or moral society for the purpose of promoting religious or moral improvement, and are sold for that purpose and not for pecuniary profit.

C. No licensed hawker or peddler shall sell or offer for sale any single ~~food,~~ good, ware or item having a retail value of more than three hundred dollars ($300). However, this dollar limitation shall not apply to any non-profit corporation duly authorized to do business in Rhode Island. A non- profit corporation means a non-profit corporation which has applied under 42 U.S.C. § 501(c)(3) for approval as a § 501(c)(3) corporation with the Internal Revenue Service or has been so approved.

§ 128-8. Sales prohibited in certain areas.

A. No person shall hawk or peddle within the Town except between the hours of 9:00 a.m. and 8:00 p.m.

B. The Chief of Police or his or her designee is hereby authorized to submit to the Council a list of streets and public ways through out the Town which, in his opinion, because of excess traffic and congestion, are unsafe for the public welfare and safety for the selling or offering for sale or merchandise by hawkers or peddlers. The Town Council will give final approval. Upon approval, such list will be on file in the Town Clerk's Office.

C. At no time shall a hawker or peddler impede the free flow of traffic. The Chief of Police or his or her designee is hereby authorized to suspend operation of hawkers or peddlers at any time and for such periods of time on streets and ways where conditions exist that require him, in his opinion, in the interest of public safety, to do so without a prior request to the Town Council.

D. No hawker or peddler shall sell his or her product within 500 feet (five hundred feet) of any business establishment in the Town which sells the same product.

§ 128-9. Transferability of license.

No license issued pursuant to the provisions of this Chapter shall be transferable, nor shall it authorize a person other than the one to whom it was issued and named therein to act there under.

§ 128-10. Display of license.

A person holding a license issued pursuant to the provisions of this Chapter shall carry it with him at all times while engaged in such business and shall produce it when required by any policeman or member of the Town Council, and failure to do so shall be grounds to revoke his license.

§ 128-11. Penalties for offenses.

Any person who shall violate any provision of this Chapter shall be subject to

revocation of license and/or the issue of a fine not to exceed two hundred dollars ($200.00).

Article II. Soliciting

§ 128-12. Soliciting in public streets.

No person shall distribute literature to, request donations from or in any other manner perform acts of solicitation of any type directed at the operator or any passenger of any motor vehicle in a travel lane, including motor vehicles stopped at intersections or in obedience to any traffic control device, on any public street or highway within the town.

§ 128-13. Permit required for door to door solicitation.

No person shall sell or attempt to sell his or her products or services by means of door to door solicitation, or employ or permit any other person to do so in the town, before first being issued a permit to do so from the Chief of Police; provided however, that the Chief of Police shall not issue any such permit to any person who has a record of conviction of a felony or of a crime involving moral turpitude and provided, further, that any permission issued under this section shall not be effective until 48 hours after the date of issuance.

Article III. Mobile Food Establishments

§ 128-14. Purpose.

The purpose of this article is to fulfill the requirements of Chapter 5-11.1-1 of the Rhode Island General Laws entitled "State Mobile Food Establishment Registration Act" and rules and regulations promulgated by the Rhode Island Department of Business Regulation pertaining to the municipal permitting of mobile food establishments.

§ 128-15. Definitions.

As used in this article, the following terms shall have the meanings indicated:
MOBILE FOOD ESTABLISHMENT — A food service operation that is operated from a movable motor-driven or propelled vehicle, portable structure, or watercraft that can change location. Mobile food establishment specifically includes, but is not limited to, food trucks, food carts, ice cream trucks/carts, and lemonade trucks/carts.
MOBILE FOOD ESTABLISHMENT PERMIT — A permit issued by the Town to a mobile food establishment operator that possesses a current state mobile food establishment registration.
TEMPORARY MASS GATHERING — An actual or reasonably anticipated assembly of 250 or more people that continues, or reasonably can be expected to continue, for two or more hours per day, or an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks. This term shall include, but is not limited to, "special events" as defined in the food code regulations promulgated by RIDOH, and festivals and concerts, but shall not include an assembly of people at a location with permanent facilities designed for that specific assembly.

§ 128-16. Municipal permit required.

A mobile food establishment, upon presenting proof of having a state mobile food establishment registration issued by the Rhode Island Department of Business Regulation, shall be issued a municipal mobile food establishment permit to operate in the Town from the Town Clerk.

§ 128-17. Restrictions on mobile food establishment permits.

The qualifications for a municipal mobile food establishment permit shall not exceed the qualifications for a state mobile food establishment registration required by the Rhode Island Department of Business Regulation. The fee for a municipal mobile food establishment permit shall not exceed the maximum fee set by the Rhode Island Department of Business Regulation. A single mobile food establishment permit shall be required to operate within the Town and no additional permits shall be required for operation on more than one day and/or in more than one location in the same calendar year.

§ 128-18. Compliance.

The mobile food establishment shall comply with the Town's land use regulations, and zoning, noise, or other ordinances in relation to the operation of a mobile food establishment, as well as all applicable statutes, rules, regulations and policies relating to food safety. Any violation of same shall be cause for suspension or revocation of a municipal food establishment permit.

§ 128-19. Display of municipal mobile food establishment permit.

The municipal food establishment permit shall be affixed to the mobile food establishment in a prominent place.

§ 128-20. Permit fees.

The fee for a license issued pursuant to this Chapter shall be seventy five dollars ($75.00).

§ 128-21. Term of license.

A mobile food license permit shall expire one year from the date on which the state registration was issued by the Department of Business Regulation.

§ 128-22. Sales prohibited in certain areas.

A. The hours of operation allowed for mobile food establishments shall be limited to 9:00 a.m. and 8:00 p.m.

B. If the operator of the mobile food establishment is not the owner of the property on which the activity is to be located, said operator shall file a written, notarized consent of the owner of said property with the Town Clerk upon application for a mobile food establishment permit.

C. At no time shall a Mobile Food Establishment impede the free flow of traffic. The Chief of Police or his or her designee is hereby authorized to suspend operation of a Mobile Food Establishment at any time and for such periods of time on streets and ways where conditions

exist that require him, in his opinion, in the interest of public safety, to do so without a prior request to the Town Council.

D. Points of sale are limited to secondary roads only. Sales are strictly prohibited on US Route 1 North and South, South County Trail, Old Post Road and Ross Hill Road. Operators are to respect the private association roads and properties and limit travel and sales to public roadways and properties.

E. No Mobile Food Establishment shall sell his or her product within 500 feet (five hundred feet) of any business establishment in the Town which sells the same product.

F. Sales are prohibited at the Charlestown Town Beach, Blue Shutters Beach and Ninigret Park, unless otherwise licensed as part of a Temporary Mass Gathering Event.

§ 128-23. Enforcement; Penalties for offenses.

A. Enforcement responsibility. The Charlestown Police Department shall be responsible for the enforcement of the provisions of this ordinance.

B. Any person who shall violate any provision of this Article shall, upon conviction thereof, be punished, for each violation, by a fine of not more than five hundred dollars ($500.00) or by imprisonment for not more than thirty (30) days. The continuation of a violation of any provision of this Article shall constitute, for each day the violation is continued, a separate and distinct violation hereunder.

Advertised in the Westerly Sun: November 4, 2019