

TOWN MANAGER
Ken Deal

TOWN CLERK
Pamela Mills

TOWN ATTORNEY
Tom Brooke



MAYOR
Lee Withers

TOWN COUNCIL
Brandon Linn
Rodney Phillips
Charles Seaford
Steve Stroud
Mike Upright

TOWN OF CHINA GROVE

ORDINANCE NO. 2016-10

AN ORDINANCE AMENDING CHAPTER 18 BUSINESSES

BE IT ORDAINED by the Town Council of the Town of China Grove that the China Grove Code of Ordinance shall be amended with the addition as follows:

- **ARTICLE III. - PEDDLERS AND SOLICITORS**

- **Sec. 18.58. – Purpose.**

The purpose of this ordinance is to protect the safety, health and welfare of the general public.

- ~~Sec. 18.58. – Definitions.~~

- **Sec. 18.59. – Definitions.**

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

Peddler means any person who transports goods from place to place and sells or offers for sale such goods, or who, without traveling from place to place, sells or offers for sale any goods from any vehicle or device; provided that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this article shall be deemed a peddler.

Solicitor means any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

Transient vendor means any person who engages in a temporary business of selling and delivering goods and who, for this purpose, uses or occupies any building or premises; provided that no person shall be relieved from complying with the provisions of this article merely by conducting a transient business in association with any permanently established merchant.

- (a) *Street Vendor* means any person who shall sell goods or services from either a motorized or nonmotorized mobile vending unit.
- (b) *Motorized mobile vending unit* means a truck, van or other motorized vehicle that incorporates a kitchen or other food preparation area from which prepared or prepackaged food may be sold.
- (c) *Nonmotorized mobile vending unit* means a cart, kiosk or other device capable of being pushed by one person, with at least two functional wheels and positive wheel-locking devices.

(Code 1977, § 6-1051; Code 1993, § 10-56)

● ~~Sec. 18-59. – Registration.~~

● **Sec. 18-60. – License required.**

It shall be unlawful for any person to engage in business as a peddler, solicitor, or transient vendor within the Town limits without having first completed and filed an application and obtained a solicitor permit and badge from the Town. Applicants shall be at least eighteen (18) years of age. The permit shall be in the form of an "identification badge" that shall be displayed by the applicant in accordance with Sec. 18-69. below. This permit is not valid for any Town sponsored event.

● **Sec. 18-61. – Application.**

- (a) Each and every person doing business in the town as a peddler, solicitor or transient vendor shall file with the clerk, ~~on a form to be provided for that purpose,~~ a statement setting forth the following information:
 - ~~(1) The name and address of the individual filing the statement.~~
 - ~~(2) The name and address of the principal or employer, if the individual is an agent or employee.~~
 - ~~(3) Credentials showing the relationship of the agent or employee.~~
 - ~~(4) A description of the individual filing the statement, including height, age, and distinguishing characteristics, if any.~~
 - ~~(5) The goods to be sold or offered for sale, or the type of services to be rendered.~~
 - ~~(6) The period of time during which the business will be carried on in the town.~~
 - ~~(7) A description of the automobile or other vehicle to be used in the business, including the make, model, body style, color and license number.~~

(Code 1977, § 6-1052; Code 1993, § 10-57)

- (1) The applicant's name, home address, telephone number, and driver's license number.
- (2) The name and address of the applicant's employer or the organization with which the applicant is associated in connection with the activity.

- (3) A physical description of the applicant, including height, age and any other additional information which the town may reasonably require for identification, including a copy of the document(s) used by the applicant to verify personal identification (e.g., driver's license, passport, picture I.D.).
- (4) If a vehicle is to be used, a complete description of the vehicle including make, model, color, and license number.
- (5) A description of the goods or services to be sold or offered for sale.
- (6) A fee as provided in the Town's fee schedule.

(a) Additional requirements and restrictions for Transient vendors:

- (1) For food vendors only, a copy of a Food Service Permit from the County Health Department.
- (2) Transient vendors shall be allowed only with the written permission of the property owner designating the vending site.
- (3) Transient vendors shall be allowed only in zoning districts Central Business (CB), Highway Business (HB), and Light Industrial (LI).
- (4) Transient vendors shall not impede vehicular or foot traffic.
- (5) Transient vendors shall not be allowed on Town property. Town property includes, but is not limited to sidewalks, parking lots, streets, parks or any other town owned or controlled property.
- (6) Transient vendors shall not be allowed within five hundred (500) feet of an event, parade, or festival held or sponsored by the Town.

Sec. 18-62. – Issuance of permit.

- (a) Permits will be issued no later than five (5) business days after the filing of a completed application for a permit and badge, the applicant shall be notified by the clerk of the decision of the issue or denial of the permit.
- (b) The Town Manager may limit the number of permits issued to a particular merchant or may limit the total number of permits outstanding at any given time to all merchants if such limitation(s) promotes the health, safety or welfare of the town residents or otherwise promotes the findings and purpose set forth herein.
- (c) Any applicant denied a permit may seek an appeal pursuant to Section 18-64.
- (d) The permit expires thirty (30) days after the issuance thereof.

Sec. 18-63. – Exemptions.

The following merchants or activities are exempt from the permitting requirements of this article:

- (a) The selling of an individual's household personal property at a yard sale on the premises of the individual's residence.
- (b) Any person selling the produce of the person's own farm or one that the person or the person's family tills.
- (c) Any person, firm or corporation who locates at a farmer's market.
- (d) The circulation of petitions for signature of lawful distribution of advertising materials, flyers, or materials expressing views on political, social, or religious matters.

- (e) Any person, firm or corporation who is participating in a special event, festival, or parade held or sponsored by the Town.
- (f) Any nonprofit religious, charitable, educational, scientific or civic organizations, including school groups and governmental entities.

Sec. 18-64. – Denial or Revocation of permit.

~~An application may be denied if it is found that granting the permit would not be in the public interest. An applicant denied a permit under this section shall receive a written statement outlining the grounds on which the denial is based. The applicant then may appeal the denial of the permit to the Town Manager within ten (10) days after the date of the written denial. In response to the appeal, the Town Manager may take such action as he shall deem to be necessary. The findings and determination of the Town Manager shall be final.~~

The Clerk shall deny an application under this chapter only if the applicant has not submitted a completed application; has submitted false information; is not permitted by law to engage in such activity due to age or other factors; has been convicted of or has pleaded no contest to a felony charge within the ten (10) years preceding the submittal of the application; or has been within the previous five (5) years convicted of, or has plead no contest to, a misdemeanor charge involving theft, fraud, forging, uttering, other crimes of like nature or any crime involving moral turpitude.

An applicant denied a license under this section shall receive a written statement outlining the grounds on which the denial is based. The applicant then may appeal the denial of the license to the Town Manager within fifteen (15) days after the date of the written denial. In response to the appeal, the Town Manager may take such action as (s)he shall deem to be necessary. The findings and determination of the Town Manager shall be final.

Sec. 18-65. – Prohibited conduct.

No peddler or solicitor shall engage in the business of peddling or soliciting between the hours of 8:00 pm and 9:00 am or after sunset.

Sec. 18-66. – Revocation of permit.

The clerk may revoke a permit issued pursuant to this section if she finds that the permittee has:

- (a) Willfully misrepresented or provided false information in the permit application.
- (b) Been convicted of a felony or any crime involving fraud, deceit, the receiving or possessing of stolen property, or moral turpitude.
- (c) Been convicted of any offense or engaged in any activity that would be grounds for denial or issuance of the permit.
- (d) Failed to comply with any terms or conditions of the permit.
- (e) Conducted the business licensed in an unlawful way or in such a way as to constitute a hazard to the health, safety, morals, or general welfare of the public.
- (f) Has failed to comply with any requirement of this section.

Sec. 18-67. – Notice and hearing.

Before revocation of a permit, the clerk shall notify the permittee of her intent to revoke the permit and the reasons therefor and shall afford the permittee a reasonable opportunity to appear and be heard on the question of such revocation to the Town Manager. After the hearing, the clerk shall notify the permit holder in writing of his decision and the reasons therefor.

Sec. 18-68. – Display and possession of permit and identification.

Any person doing business as a peddler or solicitor shall have a permit issued pursuant to this section with him at all times (s)he engages in the business for which the permit is held. Each permit issued under the provisions of this article shall be carried at all times by the permittee when he or she is engaged in business allowed under the permit. It shall be unlawful for such permittee to fail or refuse to exhibit such permit when requested to do so by a police officer. Upon request of any customer, state or local revenue agent, or law enforcement agent or officer, a peddler or solicitor shall provide a valid driver’s license, a special identification card issued under G.S. 20-37.7, a military identification, or a passport bearing a physical description of the person named, reasonably describing the peddler or solicitor. If the peddler or solicitor is a corporation, it shall, upon request of any customer, state or local revenue agent, or law enforcement agent or officer, give the name and registered agent of the corporation and the address of the registered office of the corporation, as filed with the secretary of state.

Sec. 18-69. – Penalties.

Any person found to be in violation of the requirements of this section shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).

Sec. 18-60. – Badge.

Sec. 18-70. – Badge.

(a)

The clerk shall issue to each person filing the statement required by [section 18-59](#) a badge substantially as follows:

Town of China Grove, N.C. No. _____

SOLICITOR'S BADGE

_____ (Name) _____ has registered with Town Clerk as required by Ordinance.

_____	_____
Date	Town Clerk

(b)

During the time such person is engaged in soliciting, the badge shall be worn on the front of his outer garment in such manner as to be conspicuous.

(c)

During the time such person is engaged as a transient vendor, the badge shall be displayed on the vending unit in such manner as to be conspicuous.

(Code 1977, § 6-1053; Code 1993, § 10-58)

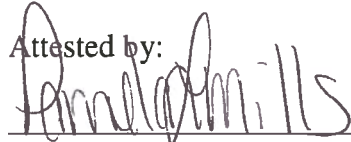
This ordinance shall be in full force and effect from and after the date of adoption.

Adopted this 6th day of September, 2016.



Lee Withers, Mayor

Attested by:



Pamela L. Mills, Town Clerk