

RESOLUTION No. 2018-

***RELATIVE TO AMENDING CHAPTER 341 OF THE CODIFIED ORDINANCES  
ENTITLED “VENDORS AND PEDDLERS”***

BY:

Council Chairman Andrew Touma  
Council Member William Kennedy  
Council Member Ezra P. Scott, Jr.  
Council Member Kenny Tompkins  
Council Member Christopher Voccio

**BE IT RESOLVED**, by the City Council of the City of Niagara Falls, New York that Chapter 341 of the Codified Ordinances entitled “Vendors and Peddlers” is hereby amended to read as follows:

...

**341.17 Special Downtown Vending District**

**(a) Intent. It is found and declared that:**

- (1) The City Council of the City of Niagara Falls, New York hereby finds and declares that there is recognized a section of the downtown area, described herein, wherein there is a unique character of pedestrian traffic, retail and office activities and entertainment activities, both seasonal and yearlong, with emphasis on pedestrian participation in said activities. The City Council of the City of Niagara Falls recognizes therefore a need to establish a policy of regulating sidewalk vendors and their locations and number and recognizes a legitimate interest of the City of Niagara Falls in eliminating confusion of vending activities,**

regulating the type of activities for pedestrian control and in protecting the public health and welfare.

(b) Establishment of Special Downtown Vending District:

(1) The Special Downtown Vending District is shown on a map filed in the office of the City Clerk. The Special Downtown Vending District is described as an area of the City of Niagara Falls bounded as follows:

(i) Special Downtown Vending District Area Boundaries:  
South side of Niagara Street only between 1<sup>st</sup> Street and Third Street.

(2) The area boundaries described as the Special Downtown Vending District shall include all City owned sidewalks and areas in front of all properties, buildings and vacant lands fronting on said boundaries.

(c) Master list of available sites.

Effective immediately, and on or before the first day of March each year hereafter, the City Clerk shall publish a master list of all vending location sites within the Special Downtown Vending District which shall be available for sidewalk sales, setting forth the following information for each site:

- (1) The total number of locations to be allowed;
- (2) The type of merchandise offered for sale to be allowed (no food items permitted);
- (3) Any restrictions as to days or times allowed;

- (4) The months comprising the season for such outdoor sales; and
- (5) Any other pertinent information, including the place and time for receipt of permit applications.

(d) The number of permits issued shall be based on the master list published by the City Clerk.

(e) Submission of permit application; continuation of existing permits; limitation on number of sites.

- (1) Upon publication of the master list by the City Clerk, applications for permits for sidewalk sales in the Special Downtown Vending District shall be submitted to the City Clerk on application forms provided by the City Clerk. The City Clerk shall review all applications for completeness and shall thereupon make determinations on whether or not a permit will be issued.
- (2) An applicant for a permit must agree to conduct the sale of merchandise from a white tent as required by the City Clerk with dimensions as required by the City Clerk.
- (3) Holders of permits at approved permitted sites shall be allowed to continue at that site in subsequent years, upon a verification by the City Clerk that no adverse action has been taken against said applicant under 341(j) of this Chapter.
- (4) With the exceptions noted herein, no person, firm, corporation, partnership, limited liability company or other entity or organization will be permitted to operate in the Special Downtown Vending District without a valid permit.

**(g) Permit requirements; multiple applications for same site; development of standards.**

**(1) Permit application requirements. The application for a permit for vending in the Special Downtown Vending District shall contain all information relevant and necessary to determine whether a particular permit may be issued, including but not limited to:**

- (a) A complete, notarized application for a permit (available at the Office of the City Clerk) including full name, home address, permanent business address (if any), telephone number, driver's license number, and proof of identity, as well as the full name, home address, telephone number, driver's license number, and proof of identity of any assistant(s) to be utilized by a vendor or peddler. Any such assistant(s) must be 18 years of age or older;**
- (b) General liability and product liability insurance coverage of \$1,000,000 per occurrence and \$2,000,000 aggregate naming the City of Niagara Falls as additionally insured;**
- (c) New York State sales tax certificate;**
- (d) A brief description of the nature, character, and quality of the goods or merchandise to be sold;**
- (e) The specific location, if any, in which the applicant wishes to conduct business;**
- (f) If an applicant is employed by or is an agent of another person, firm, corporation, partnership, limited liability company or other entity or organization, the name,**

business address, and the name of the principal/hiring person of the entity;

(g) Photograph or rendering of the white tent to be utilized by the applicant.

(h) A background check on the applicant and any of applicant's employees or assistants conducted by the Superintendent of Police that discloses any arrests or convictions for misdemeanor or felony offenses for a period of two (2) years prior to the application date and shows whether anything contained in any official record includes evidence that applicant's/employee's/assistant's moral character is inconsistent with a permit for vending upon the public sidewalks. Such background check shall be at the applicant's sole cost and expense.

(2) The City Clerk, in his or her discretion, will determine if a permit will be issued to an applicant and will also determine the location to be assigned to each applicant. No applicant may be issued a permit for more than one (1) location.

(h) Permit required; nontransferability.

(1) No person, firm, corporation, partnership, limited liability company or other entity or organization may offer for sale any item on the sidewalks of the Special Downtown Vending District without first having received a permit under the procedures established herein.

(2) No permit granted herein may be sold, leased or assigned in any fashion.

(i) Special Events.

- (1) In the case of a Special Event of any type occurring within the Special Downtown Vending District, the City Clerk shall have the authority, upon due notice to holders of permits within the area of the Special Event, to restrict or temporarily eliminate the activities of said permit holders within the area of the Special Event for a period no longer than that during which the Special Event is occurring. Said restriction or temporary elimination shall be without liability to the City of Niagara Falls. The failure of permittee to adhere to such directive may result in revocation of the permit under 341(j) of this article.

(j) Complaints; Revocation of permit.

- (1) Upon receipt of any complaint regarding the practices of approved permit holders, permit holder shall appear before the City Clerk to answer said complaint. The City Clerk shall notify the holder of said permit by mail, at least five days in advance of said hearing, informing the permit holder of the nature of the complaint and all particulars thereof.
- (2) At the convening of the hearing, the permit holder shall be given a full opportunity to answer the complaint and present any information or evidence relevant to the matter of which the permit holder has been given notice.
- (3) Upon completion of the hearing, the City Clerk shall notify the permit holder within seven days of the hearing, whether the

**permit shall be continued for its term or revoked or suspended,  
and the stated reasons therefore.**

- (4) **No applicant shall receive a permit within the Special Downtown Vending District who has had a prior permit revoked for cause within two years of said revocation.**

**(k) Payment of fees.**

- (1) **The permit fee for a location in the Special Downtown Vending District shall be \$1,500.00 for the season which is defined as May 1<sup>st</sup> through and including September 30<sup>th</sup> of each year.**

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Bold and Underline Indicate **Additions**

Bold and Brackets Indicate **[Deletions]**