

**FILE OF THE CITY CLERK**

**ADMINISTRATIVE ORDINANCE NO.**

**ADMINISTRATION BILL NO. 15, 2010**

**INTRODUCED – AUGUST 10, 2010**

**ADOPTED BY COUNCIL –**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, LANCASTER COUNTY, PENNSYLVANIA AMENDING AND MODIFYING THE CODE OF THE CITY OF LANCASTER, CHAPTER 291 – VENDING TO MODIFY AND ADD DEFINITIONS INCLUDING DEFINITIONS FOR CENTRAL BUSINESS DISTRICT CART VENDING AREAS, CENTRAL BUSINESS DISTRICT CART VENDING LOCATIONS, NEIGHBORHOOD CART AND TRUCK VENDING AREAS, NEIGHBORHOOD CART AND TRUCK VENDING LOCATIONS, CART VENDORS/TRUCK VENDOR AND FOOD PRODUCTS; CREATING CENTRAL BUSINESS DISTRICT CART VENDING AREAS AND LOCATIONS AND NEIGHBORHOOD CART AND TRUCK VENDING AREAS AND LOCATIONS, MODIFYING THE DESIGN STANDARDS FOR VENDING CARTS, REQUIRING CART OPERATORS TO REMOVE TRASH ON A DAILY BASIS, MODIFYING THE LICENSE APPLICATION AND SELECTION PROCESS, MODIFYING THE PROCESS FOR SUSPENSION OR REVOCATION OF LICENSES, MODIFYING THE APPEALS PROCESS, CREATING NEW LICENSE REQUIREMENTS AND STANDARDS; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY PENNSYLVANIA LAW.**

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the City Council of the City of Lancaster, Lancaster County, Pennsylvania, as follows:

**SECTION 1.** The Code of the City of Lancaster, Chapter 291 – Vending, be and hereby is amended to read as follows:

**“§ 291-1. Intent and Purpose**

The Council, desiring to promote and facilitate the continued revitalization of Lancaster City by fostering a program which would positively contribute to the aesthetic appearance, vitality and excitement of the city, increase the pleasurable experience of both shoppers and city residents and enhance the success of the existing merchant base, finds and declares that the establishment of a strictly regulated sidewalk cart vendor and truck vendor program, limited as to number, location and type of vendor so as not to impede or be disruptive to orderly and efficient

pedestrian use of the sidewalks or city areas such as parks and streets, nor unduly interfere with established business upon whose success the continued vitality of the city depends, would significantly and substantially contribute to the city's revitalization and be therefore in the public interest.

§ 291-2. Definitions

For the purpose of this article, certain terms shall be defined as follows:

CENTRAL BUSINESS DISTRICT CART VENDING AREA(S)

The public sidewalks encompassed within and limited to Lancaster Square and Penn Square and such other public areas within the Central Business and Central Business Core Zoning Districts as may be designated by resolution of City Council.

NEIGHBORHOOD CART AND TRUCK VENDING AREA(S)

Areas outside of the Central Business and Central Business Core Zoning Districts as may be designated by resolution of City Council.

CENTRAL BUSINESS DISTRICT CART VENDING LOCATIONS

A fixed location within a cart vending area(s) as have been designated by regulations of the Director to be available for placement of a vending cart licensed under this article.

NEIGHBORHOOD CART AND TRUCK VENDING LOCATIONS(S)

A fixed location within cart/truck vending area(s) as have been designated by the Health Officer to be available for placement of a vending cart or vending truck licensed under this article.

CART VENDOR/TRUCK VENDOR

A person selling or offering for sale food products or natural products from a vending cart or vending truck.

DIRECTOR

The Director of Public Works of the City of Lancaster or his/her designee.

FIRE MARSHAL

The Fire Marshal of the City of Lancaster and his/her assistants.

FOOD PRODUCTS

Includes and shall be limited to such foods intended for immediate consumption following sale as can, without threat or danger to public health, be maintained and sold from portable vending

carts and which are designated on a list of such products to be approved and maintained by the Director with the concurrence of the Health Officer.

#### HEALTH OFFICER

The Health Officer of the City of Lancaster and his/her assistants.

#### NATURAL PRODUCTS

Includes and shall be limited to whole fruits and vegetables (uncut, unfrozen, unprocessed, raw fruits and vegetables), flowers and such other non manufactured products suitable for sale from portable vending carts or vending trucks where the vending cart or vending truck occupies a designated location and which offers products included on a list of such items approved and maintained by the Health Officer.

#### PERSON

Any individual, firm, partnership, association, corporation, company or organization of any kind, and when used in any clause prescribing and imposing a penalty, "person" includes the individual members, partners, officers and managers (or any of them) of partnerships, associations and similar entities, and the officers, directors and managers (or any of them) of corporations.

#### § 291-3 Central Business District Cart vending license; fees; food employee certification; Food Code

- A. License required. No person shall sell or offer for sale any food, merchandise or products of any kind, except newspapers, on any sidewalk in the city unless holding a cart vendor license issued under this article or being a part of an activity or program approved as a special event by the Office of the Mayor.
- B. Location and type. A cart vending license shall only be issued for and restricted to cart vendor sales of either one or the other of food products or natural products from an approved vending cart, at a specific and fixed cart vending location in a cart vending area which restrictions shall be specified on the license issued.
- C. License term and fees. A cart vending license shall be issued for a one-year term from the date of issuance renewable annually upon payment of an annual license fee, to be established by resolution of City Council, and faithful adherence to the requirements of this article and the regulations promulgated hereunder.
- D. Multiple licenses prohibited. No person who holds or has an interest in a cart vending license as an owner, partner or shareholder shall have any interest, either directly or indirectly, as an owner, partner or shareholder, in any other cart vending held by the

person, or member of the person's immediate family, unless at the time such license becomes available for issue no other person makes application therefor.

E. License nontransferable. A cart vending license when issued shall not be transferable to another holder except upon the death or disability of the holder and any prohibited transfer of the license shall work an automatic forfeiture thereof. If the license holder is not a natural person, the transfer of any ownership interest in the holder of the license shall be deemed a prohibited transfer.

F. Food employee certification. All cart vendors who offer food products for sale shall comply with all applicable provisions of the Food Employee Certification Act, 3 Pa.C.S.A. § 6501 et seq., and the regulations promulgated pursuant thereto by the Pennsylvania Department of Agriculture, 7 Pa. Code § 76.1 et seq., as amended from time to time, including, but not limited to, employing a supervisory employee who has successfully completed a food employee certification approved training program or successor program. Any violation of the provisions of the Food Employee Certification Act or the related regulations shall constitute a violation hereunder.

G. Food Code. All cart vendors who offer food products for sale shall comply with all applicable provisions of the Food Code issued by the Pennsylvania Department of Agriculture, 7 Pa. Code § 46.1 et seq., as amended from time to time. Any violation of the provisions of the Food Code shall constitute a violation hereunder.

#### § 291-4 Central Business District Vending Cart design standards.

A. Design. All vending carts shall be attractive, sanitary and mobile, having at least two wheels and being of such size, weight and construction as to permit easy movement by a single person. Vending carts shall fully comply with such design criteria, standards and specifications as are prescribed in the regulations promulgated hereunder. Failure to comply, in the judgment of the Director, shall be sufficient grounds for rejection of a cart vending license application or suspension or revocation of any license issued.

B. Maintenance. All vending carts shall at all times be maintained in good condition and repair. Any repairs to or replacements of vending carts shall comply fully with the existing design criteria, standards and specifications. No replacement cart may be placed into operation until approved by the Director.

C. Carts self-contained. All vending carts shall be so designed that all sales activities, including trash disposal facilities, can be conducted totally from the vending cart. Use of the sidewalk by a cart vendor for product display, storage or trash receptacle location shall be prohibited.

D. Signs. Signs to include an identification of the cart vendors is permitted. Any merchandise listings must be professionally painted or handwritten on an attractive removable chalk or marker board or similar structure.

§ 291-5 Central Business District Cart Vending operation standards.

A. Days and hours of operation. Cart vending sales may be conducted daily during such hours as may be prescribed in the regulations promulgated hereunder.

B. Daily removal. Vending carts shall be removed from the cart vending location daily by not later than 9:00 pm and not returned thereto until the times as may be prescribed for cart breakdown or setup, as the case may be, in the regulations promulgated hereunder.

C. Safe and sanitary condition. Vending carts shall be maintained in a safe, clean and sanitary condition at all times. Vending carts licensed hereunder to sell food products shall:

(1) Be subject to inspection at any time by the Health Officer and/or his inspectors and shall at all times be licensed under and be in compliance with the Health Code of the city.

(2) If using portable heating or cooking facilities, be subject to inspection at all times by the Fire Marshal and shall comply with all applicable requirements of the Fire Code of the city.

D. Quiet operations. Cart vendors shall conduct business in an orderly fashion and shall not make loud or raucous noises or use sound-amplifying devices to attract attention nor verbally hawk or solicit product sales to pedestrians or motorists.

E. Use and maintenance of sidewalk. All sales and related activity shall be conducted from the vending cart during which times the vending cart shall not be moved from the assigned cart vending location. No products shall be stored or displayed nor trash receptacles placed on the sidewalk or any adjacent outside area. The sidewalk in the immediate vicinity of the vending cart shall be kept and maintained by the cart vendor, free of trash, litter, debris or spillage generated by the vendor's vending cart. Trash must be removed from the vending cart on a daily basis. Tables or other pedestrian obstructions are prohibited.

§ 291-6 Central Business District Cart Vending License application and selection.

A. Notice of license availability. At such time as a cart vending license shall become available, the Director shall give public notice thereof by advertising such availability two times in a newspaper of general circulation in Lancaster County not less than 45 nor more than 60 days prior to the date of license auction. The advertisement shall specify the number and type (food or natural products) of cart vending license available, the cart vending location, that the license(s) shall be awarded by auction to the highest bidding qualified applicant, the date, time and place of the auction and where and by when applications for a license shall be filed. Not less than 30 days shall be allowed for the filing of applications.

B. Application. Any person interested in applying for a cart vendor's license may, after public notice of license availability has been given and within the time specified in the notice, make application therefor upon filing such forms containing such information as the Director shall by regulation require which shall be accompanied by a nonrefundable application fee of \$50. The application shall at a minimum include:

(1) Drawings and specifications of the proposed vending cart to be used in sufficient detail that compliance with the vending cart design criteria, standards and specifications can be determined.

(2) If an application for sale of food products, sufficient detail about the proposed vending cart for the Health Officer to evaluate whether the proposed cart will meet applicable city and state health codes.

C. Review of applications. Not less than 15 days prior to the auction, the Director shall complete the review of all applications filed and notify the applicants of the results thereof, in writing.

(1) An application shall be denied and the applicant ineligible to participate in the cart vending license auction if:

- (a) The application is incomplete in any material respect;
- (b) The proposed vending cart does not comply with the cart design criteria, standards or specifications and/or applicable health codes.
- (c) The cart vendor does not intend to operate the vending cart at the requested location a minimum of one day per week.
- (d) The applicant, or any natural person having not less than a thirty-three-percent interest in the entity making application has:

- [1] An interest in another cart vending license;
- [2] Within the past five years held or had an interest in a cart vending license that had been revoked;
- [3] Any city tax liability being more than 10 days overdue; or
- [4] Within the past 10 years been convicted of selling, offering to sell or possession with intent to sell a controlled substance.

[e] Results of a required Police background check.

(2) If an application is denied, the applicant shall be notified, in writing, of the reason therefor.

D. Award of license by auction. Cart vending licenses shall be awarded by public auction limited to approved applicants. The opening bid shall be \$250, and thereafter the license shall be awarded to the highest bidder. If there are no bidders, the Director shall award the license to any qualified person who makes application therefor within six months of the auction, meets the requirements of this article and the regulations

promulgated hereunder and pays the minimum annual fee. After six months, no license shall be awarded except upon public notice and auction. Subject to public notice being given in the manner specified in Subsection A hereof, auctions may be conducted any time a license becomes available by reason of nonrenewal, early voluntary termination or early involuntary termination.

§ 291-7 Central Business District Cart Vending Suspension or revocation of license.

A. Grounds. A cart vending license shall be subject to suspension or revocation by the Director for any of the following causes:

- (1) The violation of any provision of this article, the regulations promulgated hereunder or the orders of the Director issued pursuant thereto;
- (2) Where the license holder has knowingly made a false, misleading or fraudulent statement of material fact in the application for a license;
- (3) When the license holder fails to pay the license renewal fee within 10 days of the annual anniversary date of license issuance; or
- (4) If the cart vending license is for sale of food products, when the cart vendor violates the provisions of or fails to maintain any license or permit required by any applicable city or state health codes.
- (5) If the cart vendor fails to operate the cart at the prescribed location at least one day a week during the license period.

B. Procedure, notice and hearing.

- (1) Prior to the suspension or revocation of a cart vending license becoming effective, the Director shall notify the licensee, in writing, of the suspension or revocation, the reasons therefor, his right to a hearing before the Director if desired and that unless a request for a hearing is filed in writing within 15 days of the date of the notice of suspension or revocation, the suspension or revocation shall then become effective without further action. Such notice shall be served upon the licensee by delivering the same personally or by registered mail, postage fully prepaid, addressed to the licensee at his or her place of business or residence as shown on the license application.
- (2) If a hearing is requested before the Director, it shall be conducted by the Director or his designee within 10 days of the request and shall be conducted in accordance with the Local Agency Law (2 Pa.C.S.A. § 105). If following the hearing the suspension or revocation is upheld, the reasons therefor shall be set forth in writing and delivered to the licensee by ordinary mail. A decision upholding or sustaining the suspension or revocation shall result in such

suspension or revocation becoming effective and not subject to further stay except upon order of court.

§ 291-8 Appeals to Board of Health; fee.

A. Time and manner. Within five days after the date of denial of an application for a cart vending license by the Director or within 30 days after action by the Director suspending or revoking a cart vending license being final, any person so affected may appeal such action to the License Review Board by filing a notice of appeal, in writing, with the Director, setting forth the specific grounds upon which the appeal is based together with an appeal fee of \$100.

B. Hearing and decision. Upon the filing of an appeal, the Director shall set a time and place for hearing before the License Review Board and shall notify the appellant thereof. The hearing shall be set within the number of days of the filing of the appeal as follows: from a denial of an application for a cart vending license, five days; from action of the Director suspending or revoking a license becoming final, 30 days. The hearing shall be conducted in accordance with the requirements of the Local Agency Law (2 Pa.C.S.A. § 105). The appellant and any other interested party shall be given a reasonable opportunity to be heard in order to show cause why the determination of the Director should not be upheld. In all cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the decision of the Director. The decision of the License Review Board shall be in writing and shall state the reasons therefor.

C. Appeal not a stay. The filing of an appeal hereunder shall not operate to stay the action or decision of the Director which is the subject of the appeal.

D. License Review Board. The License Review Board for the purposes of this article shall be the Board of Health of the city, which Board shall have full authority to carry out the duties of the License Review Board as set forth in this article.

§ 291- 9 Neighborhood Cart and Truck Vendor license; fees; food employee certification; Food Code

A. License required. No person shall sell or offer for sale any Natural Products on any sidewalk in the city unless holding a cart vendor license or truck vendor license, issued under this article or being a part of an activity or program approved as a special event by the Office of the Mayor.

B. Location and type. A neighborhood cart vending license or truck vending license, shall only be issued for and restricted to cart vendor sales or truck vendor sales of natural products from an approved vending cart or vending truck, at a specific and fixed cart vending or truck vending location in a cart vending or truck vending area, which restrictions shall be specified on the license issued.

C. License term and fees. A neighborhood cart vending or truck vending license shall be issued for a one-year term from the date of issuance, renewable annually upon payment of an annual license fee, to be established by resolution of City Council, and faithful adherence to the requirements of this article and the regulations promulgated hereunder.

D. Multiple licenses prohibited. No person who holds or has an interest in a neighborhood cart vending or truck vending license as an owner, partner or shareholder shall have any interest, either directly or indirectly, as an owner, partner or shareholder, in any other neighborhood cart vending or truck vending license held by the person, or member of the person's immediate family, unless at the time such license becomes available for issue no other person makes application therefor.

E. License nontransferable. A neighborhood cart vending or truck vending license when issued shall not be transferable to another holder except upon the death or disability of the holder and any prohibited transfer of the license shall work an automatic forfeiture thereof. If the license holder is not a natural person, the transfer of any ownership interest in the holder of the license shall be deemed a prohibited transfer.

F. Food employee certification. All cart and truck vendors who offer Natural Products for sale shall comply with all applicable provisions of the Food Employee Certification Act, 3 Pa.C.S.A. § 6501 et seq., and the regulations promulgated pursuant thereto by the Pennsylvania Department of Agriculture, 7 Pa. Code § 76.1 et seq., as amended from time to time, including, but not limited to, employing a supervisory employee who has successfully completed a food employee certification approved training program or successor program. Any violation of the provisions of the Food Employee Certification Act or the related regulations shall constitute a violation hereunder.

G. Food Code. All neighborhood cart and truck vendors who offer Natural Products for sale shall comply with all applicable provisions of the Food Code issued by the Pennsylvania Department of Agriculture, 7 Pa. Code § 46.1 et seq., as amended from time to time. Any violation of the provisions of the Food Code shall constitute a violation hereunder.

§ 291- 10 Neighborhood Vending Cart and Vending Truck design standards.

A. Design. All vending carts shall be attractive, sanitary and mobile, having at least two wheels and being of such size, weight and construction as to permit easy movement by a single person. Vending carts shall fully comply with such design criteria, standards and specifications as are prescribed in the regulations promulgated hereunder. Failure to comply, in the judgment of the Health Officer, shall be sufficient grounds for rejection of a cart vending license application or suspension or revocation of any license issued. All vending trucks must be attractive and sanitary. All trucks are subject to preliminary inspection prior to usage for vending. Appropriate paperwork identifying owner and proper automobile/truck insurance, must be presented as a pre-requisite for obtaining a license. Only the approved truck and truck owner are eligible to conduct sales of Natural Products at specified sites.

B. Maintenance. All vending carts and vending trucks shall at all times be maintained in good condition and repair. Any repairs to or replacements of vending carts or vending trucks shall comply fully with the existing design criteria, standards and specifications. No replacement cart or truck may be placed into operation until approved by the Health Officer.

C. Carts self-contained. All vending carts shall be so designed that all sales activities, including trash disposal facilities, can be conducted totally from the vending cart. Use of the sidewalk by a cart vendor for product display, storage or trash receptacle location shall be prohibited. Vending trucks are prohibited from using sidewalks and streets as location for trash receptacles or product display.

D. Signs. Signs to include an identification of the cart vendor or truck vendor is permitted. Any merchandise listings must be professionally painted or handwritten on an attractive removable chalk or marker board or similar structure.

§ 291- 11 Neighborhood Cart vending and truck vending operation standards.

A. Days and hours of operation. Neighborhood cart vending and truck vending sales may be conducted daily during such hours as may be prescribed in the regulations promulgated hereunder or established by the owner of the site where the vending sales are conducted.

B. Daily removal. Vending carts and vending trucks shall be removed from the cart vending and truck vending location daily no later than 6:00 pm and not returned thereto until the times as may be prescribed for cart or truck breakdown or setup, as the case may be, in the regulations promulgated hereunder or established by the owner of the site where the vending sales occur.

C. Safe and sanitary condition. Vending carts and vending trucks shall be maintained in a safe, clean and sanitary condition at all times. Vending carts and vending trucks licensed hereunder to sell food products shall:

(1) Be subject to inspection at any time by the Health Officer and/or his inspectors and shall at all times be licensed under and be in compliance with the Health Code of the city.

D. Quiet operations. Neighborhood cart vendors and truck vendors shall conduct business in an orderly fashion and shall not make loud or raucous noises or use sound-amplifying devices to attract attention nor verbally hawk or solicit product sales to pedestrians or motorists.

E. Use and maintenance of sidewalk. All sales and related activity shall be conducted from the vending cart or vending truck during which times the vending cart or vending truck shall not be moved from the assigned cart vending or truck vending location. No

products shall be stored or displayed, nor trash receptacles placed on the sidewalk or any adjacent area outside the approved vending area. The sidewalk in the immediate vicinity of the vending cart or vending truck shall be kept and maintained by the cart vendor or truck vendor, free of trash, litter, debris or spillage generated by the vendor's vending cart or vending truck. Trash must be removed from the site on a daily basis by the vendor. Tables or other pedestrian obstructions are prohibited.

§ 291- 12 License application and selection.

A. Notice of license availability. At such time as a neighborhood cart vending license or truck vending license shall become available, the Health Officer shall give public notice thereof by advertising such availability two times in a newspaper of general circulation in Lancaster County not less than 45 nor more than 60 days prior to the date of license auction. The advertisement shall specify the number and type Natural Product(s) of cart vending license or truck vending license available, the cart vending or truck vending location, that the license(s) shall be awarded based on a first-come, first-served basis for qualified applicants, and where and by when applications for a license shall be filed. Not less than 30 days shall be allowed for the filing of applications.

B. Application. Any person interested in applying for a neighborhood cart vendor's or truck vendor's license may, after public notice of license availability has been given and within the time specified in the notice, make application therefor upon filing such forms containing such information as the Health Officer shall by regulation require which shall be accompanied by a nonrefundable application fee of \$50. The application shall at a minimum include:

(1) Drawings, photographs and specifications of the proposed neighborhood vending cart or vending truck to be used in sufficient detail that compliance with the vending cart or truck vendor design criteria, standards and specifications can be determined.

(2) Sufficient detail about the Natural Products to be sold by the proposed neighborhood vending cart or vending truck for the Health Officer to evaluate whether the proposed cart or truck will meet applicable city and state health codes.

C. Review of applications. The Health Officer shall complete the review of all applications filed and notify the applicants of the results thereof, in writing within 60 days of receiving a complete application.

(1) An application shall be denied and the applicant ineligible to receive a neighborhood cart vending or truck vending license if:

(a) The application is incomplete in any material respect;

(b) The proposed vending cart does not comply with the cart design criteria, standards or specifications and/or applicable health codes; or if

the proposed vending truck does not comply with the standards or specifications and/or applicable health codes.

(c) The applicant, or any natural person having not less than a thirty-three-percent interest in the entity making application has:

- [1] An interest in another cart vending or truck vending license;
- [2] Within the past five years held or had an interest in a cart vending or truck vending license that had been revoked;
- [3] Any city tax liability being more than 10 days overdue; or
- [4] Within the past 10 years been convicted of selling, offering to sell or possession with intent to sell a controlled substance.

(d) Results of a required Police background check.

(2) If an application is denied, the applicant shall be notified, in writing, of the reason therefor.

§ 291- 13 Suspension or revocation of license.

A. Grounds. A neighborhood cart vending or truck vending license shall be subject to suspension or revocation by the Health Officer for any of the following causes:

- (1) The violation of any provision of this article, the regulations promulgated hereunder or the orders of the Health Officer issued pursuant thereto;
- (2) Where the license holder has knowingly made a false, misleading or fraudulent statement of material fact in the application for a license;
- (3) When the license holder fails to pay the license renewal fee within 10 days of the annual anniversary date of license issuance; or
- (4) If the neighborhood cart vending or truck vending license is for sale of Natural Products, when the cart or truck vendor violates the provisions of or fails to maintain any license or permit required by any applicable city or state health codes.
- (5) The practice of fraud, deceit, misrepresentation or furnishing false information in the course of carrying on the licensed business.
- (6) Conviction of certain crimes. If any licensee is convicted of robbery, burglary, theft, receiving stolen goods or any other crime involving the unlawful obtaining of personal property.
- (7) Failure by the licensee to conduct approved sales of Natural Products less than one day per week at the approved location.

B. Procedure, notice and hearing.

(1) Prior to the suspension or revocation of a neighborhood cart vending or truck vending license becoming effective, the Health Officer shall notify the licensee, in writing, of the suspension or revocation, the reasons therefor, his right to a hearing before the Health Officer if desired and that unless a request for a hearing is filed in writing within 15 days of the date of the notice of suspension or revocation, the suspension or revocation shall then become effective without further action. Such notice shall be served upon the licensee by delivering the same personally or by registered mail, postage fully prepaid, addressed to the licensee at his or her place of business or residence as shown on the license application.

(2) If a hearing is requested before the Health Officer, it shall be conducted by the Health Officer or his designee within 10 days of the request and shall be conducted in accordance with the Local Agency Law (2 Pa.C.S.A. § 105). If following the hearing the suspension or revocation is upheld, the reasons therefor shall be set forth in writing and delivered to the licensee by ordinary mail. A decision upholding or sustaining the suspension or revocation shall result in such suspension or revocation becoming effective and not subject to further stay except upon order of court.

§ 291-14 Appeals to License Review Board; fee.

A. Time and manner. Within five days after the date of denial of an application for a neighborhood cart vending or truck vending license by the Health Officer, or within 30 days after action by the Health Officer suspending or revoking a neighborhood cart vending or truck vending license being final, any person so affected may appeal such action to the License Review Board by filing a notice of appeal, in writing, with the Health Officer, setting forth the specific grounds upon which the appeal is based together with an appeal fee of \$100.

B. Hearing and decision. Upon the filing of an appeal, the Health Officer shall set a time and place for hearing before the License Review Board and shall notify the appellant thereof. The hearing shall be set within the number of days of the filing of the appeal as follows: from a denial of an application for a neighborhood cart vending or truck vending license, five days; from action of the Health Officer suspending or revoking a license becoming final, 30 days. The hearing shall be conducted in accordance with the requirements of the Local Agency Law (2 Pa.C.S.A. § 105). The appellant and any other interested party shall be given a reasonable opportunity to be heard in order to show cause why the determination of the Health Officer should not be upheld. In all cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the decision of the Health Officer. The decision of the License Review Board shall be in writing and shall state the reasons therefor.

C. Appeal not a stay. The filing of an appeal hereunder shall not operate to stay the action or decision of the Health Officer which is the subject of the appeal.

D. License Review Board. The License Review Board for the purposes of this article shall be the Board of Health of the city, which Board shall have full authority to carry out the duties of the License Review Board as set forth in this article.

§ 291-15 Regulations.

The Director and Health Officer(s) may promulgate such regulations as are necessary for the proper administration and enforcement of this article. Before becoming effective, any such regulations shall be approved by resolution of the City Council and thereafter shall be available for public inspection.

§ 291-16 Enforcement and modification.

A. This article shall be enforced by the Department of Public Works of the City acting through the Director or his designated representative and the City Health Officer(s).

B. During officially sanctioned special events in the Central Business District and Central Business Core District, privileges of sidewalk vendor licenses issued by the City may be modified at the discretion of the Director of Public Works, when conflicts of location arise between the vendor and the special event presentation.

C. Neighborhood Cart Vending and Truck Vending authorized under the provisions of this article and located on property designated by resolution of City Council shall be exempt from City of Lancaster zoning review and approval.

§ 291-17 Violations and penalties.

A. Any person violating any provision of this article or of the regulations promulgated hereunder shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than \$100 nor more than \$600 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than 90 days, or both. Each day during which any person violates any provision of this article shall constitute a separate offense.

B. Institution of a prosecution for the imposition of the foregoing penalty shall not be construed to limit or deny the right of the City to such equitable or other remedies as may be allowed by law.”

**SECTION 2.** In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the City of Lancaster that the remainder of the Ordinance shall be and shall remain in full force and effect.

**SECTION 3.** All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded. Notwithstanding the foregoing, any repeals of provisions in Chapter 291 shall not be deemed to effect any current prosecutions pending at the time of the adoption of this Ordinance under Chapter 291 of the Code of the City of Lancaster.

**SECTION 4.** This Ordinance shall become effective as provided by the laws of the Commonwealth of Pennsylvania.

DULY ORDAINED AND ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the Council of the City of Lancaster, Lancaster County, Pennsylvania, in lawful session duly assembled.

ATTEST:

CITY OF LANCASTER

\_\_\_\_\_  
Janet Spleen, City Clerk

By: \_\_\_\_\_  
J. Richard Gray, Mayor