

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4316

AMENDING CERTAIN SECTIONS IN CHAPTER 10 OF THE MICHIGAN CITY MUNICIPAL CODE REGARDING LICENSING OF CARNIVALS, FESTIVALS AND FAIRS

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AMENDING CERTAIN SECTIONS IN CHAPTER 26 OF THE MICHIGAN CITY MUNICIPAL CODE TO AMEND THE DEFINITION OF TRANSIENT MERCHANT AND TO ESTABLISH EXEMPTIONS FROM LICENSING REQUIREMENTS FOR TRANSIENT MERCHANTS AND MOBILE FOOD VENDORS PARTICIPATING IN CARNIVALS, FESTIVALS & FAIRS

**WHEREAS**, pursuant to I.C 36-8-2-11, “a unit may regulate solicitation by persons offering goods or services to the public or solicitation for charitable causes;” and

**WHEREAS**, recently, the Common Council enacted Ordinance No. 4312 creating a new Article II in Chapter 26 of the Michigan City Municipal Code entitled “*Street Vendors; Transient Merchants; and Mobile Food Vendors;*” and

**WHEREAS**, since the passage of this Ordinance, the Common Council reasonably believes certain amendments should be made and more specifically;

- a. With regard to church festivals, street festivals, and amusement events, which require an amusement license per Chapter 10 of the Michigan City Municipal Code, transient merchants and mobile food vendors should be exempt from each of their respective individual licensing requirements under Chapter 26 and shall be included in the amusement license; and
- b. Certain fundraising events, such as carwashes and port-a-pit chickens, should be exempt from the transient merchant licensing requirements for Indiana fraternal not-for profit organizations, 501(c)(3) organizations, and Indiana not-for-profit veterans organizations, and children under 17 years of age performing such event for their respective organizations.

**NOW, THEREFORE, BE IT ORDAINED** by the Common Council of the City of Michigan City, Indiana, as follows:

**SECTION 1:** The following sections in Chapter 10 of the Michigan City Municipal Code shall be amended to read as follows:

**Sec. 10-121. - Required.**

- (a) No person shall operate a public hall or theater, or conduct or participate in a circus, carnival, sideshow, street fair, festival or amusement rides for which money or reward is demanded or received, without first obtaining a license and paying the fees as provided in this division.
- (b) The applicant for a license to conduct a circus, carnival, sideshow, street fair, festival or amusement rides shall give at least one month’s notice in writing to the city clerk, stating the dates of the performances or operation and the proposed location.

**Sec. 10-124. - Fee.**

- (a) The annual license fees which shall be paid to the city for the licenses required by the provisions of this division shall be as provided in section 50-72.
- (b) The board of public works and safety may waive payment of the fee required to conduct a circus, carnival, sideshow, street fair, festival or amusement rides where the performance or operation is fostered and supervised by religious, charitable or civic groups or purposes.

**SECTION 2:** Sec. 26-83 and Sec. 26-92 in Chapter 26 of the Michigan City Municipal Code shall be amended to read as follows:

**Sec. 26-83. Exceptions.**

A license is not required of the following:

- (a.) Any transient merchant included by agreement with the City in an event which is sponsored by the City or which has been authorized by the City by lease, agreement, or other entitlements issued by the City.
- (b.) Any person conducting the type of sale commonly known as a garage sale, rummage sale, or estate sale.
- (c.) Any transient merchant included by agreement with a person who has been granted a license by the Board of Public Works and Safety under Chapter 10 (Amusement and Entertainment) of the Michigan City Municipal Code. The licensee shall be responsible to insure that every transient merchant operating under its license complies with all provisions of the Code and the Board of Works must be provided a fully executed copy of the agreement(s).
- (d.) Indiana not-for-profit fraternal organizations, Indiana not-for-profit organizations tax exempt under the Internal Revenue Code Section 501(c)(3), and Indiana not-for-profit veterans' organizations temporarily selling merchandise, services, or seeking donations or fundraising on behalf of their respective organization; and
- (e.) Persons, age 17 and under, temporarily selling merchandise, services, or seeking donations or fundraising on behalf of a school, church, sport, Boys & Girls Clubs, or scouting organization.

**Sec. 26-92. Exceptions.**

A license is not required of the following:

- (a.) Any mobile food vendor included by agreement with the City in an event which is sponsored by the City or which has been authorized by the City by lease, agreement, or other entitlements issued by the City.
- (b.) Any mobile food vendor included by agreement with a person who has been granted a license by the Board of Public Works and Safety under Chapter 10 (Amusement and Entertainment) of the Michigan City Municipal Code. The licensee shall be responsible to insure that every transient merchant operating under its license complies with all provisions of the Code and the Board of Works must be provided a fully executed copy of the agreement(s).

This Ordinance to be effective upon passage by the Common Council, approved by the Mayor, any necessary publication, and necessary approval by the Indiana Department of Local Government Finance.

**INTRODUCED BY:** /s/ Ron Hamilton, Member  
Michigan City Common Council

/s/ Pat Boy, Member  
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 6<sup>th</sup> day of May, 2015.

/s/ Chris Schwanke, President  
Michigan City Common Council

Approved by me, this 7<sup>th</sup> day of May, 2015.

/s/ Ron Meer, Mayor  
City of Michigan City, Indiana

ATTEST:

/s/ Gale A. Neulieb, Clerk  
City of Michigan City, Indiana

*Prepared by Corporation Counsel Upon Request.*