Entrepreneurship in Charlotte: Strong Spirit, Serious Barriers

By Clint Bolick

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Executive Summary

INTRODUCTION

In many ways, Charlotte exemplifies the "new South": prosperous, progressive, probusiness. It's a growing city, and entrepreneurial opportunities are growing with it. But too often, government gets in the way through anachronistic and anticompetitive regulations, often enforced by bureaucrats who do not share the city's entrepreneurial spirit.

At a time when welfare reform emphasizes the transition from public assistance to work, it is vital that government makes sure that all Americans have the opportunity to earn an honest living, free from arbitrary or excessive government regulation. Unfortunately, regulatory barriers imposed by every level of government hamper the creation of new enterprises. Most of the restrictions on entry are erected at the state and local level, in the form of occupational and business licensing laws, fees, and zoning requirements. They inflict their greatest burden on people with the fewest skills and resources, disproportionately minorities and the poor.

Excessive regulation is often self-defeating: It drives businesses underground outside the reach of both taxation and regulation. Our analysis—focusing on the regulatory climate in general and on specific entry-level businesses in particular—reveals that although Charlotte is far from the most over-regulated city, too many barriers to entry-level entrepreneurship exist at both the state and local level.

RED TAPE, LOTS OF IT

Before any new business in Charlotte can get off the ground, it faces an often bewildering and arbitrary licensing system. The State issues licenses and permits for more than 600 businesses, occupations, and economic activities. Added to those are hundreds of "privilege licenses" issued by the City of Charlotte and Mecklenburg County for businesses ranging from "abattoirs" to wine sellers. Even yard sales require permit fees, and their numbers are limited. In a nation whose beacon is enterprise—and in a city that purports to value enterprise—operating a business should be considered a right, not a privilege. This study finds that the City's and State's licensing requirements can deter legitimate enterprises, particularly those started by those with limited skills or business experience.

In addition to the licensing process, annual license fees follow no rhyme nor reason. The result is regulatory cacophony where the fees bear no relation to profitability or services received: A large company requiring extensive City services and reaping a huge profit pays the same percentage of gross sales as a home-based entrepreneur who operates at a net loss.
ZONING AND OTHER BUSINESS REGULATIONS

A major recurring obstacle to entrepreneurship in urban areas is excessive regulation of private property. Zoning standards often are outmoded and the process for obtaining variances typically is cumbersome and arbitrary.

Home-based Businesses

Charlotte zoning officials have outlawed home-based businesses that produce goods for sale, while placing capricious restrictions on home-based offices. Among these are limits on the area used for the home-based business to 25 percent or less of the first floor of the dwelling, and requirements that only residents may work there. The sum of the regulations is to severely constric home-based businesses in most instances and to preclude them altogether in others. With the advent of modern communications technologies, home businesses provide valuable employment and entrepreneurial opportunities, particularly for single and stay-at-home parents, senior citizens, people with disabilities, and people with limited capital.

The Proposed Urban Corridor District

In Charlotte, a great deal of debate is taking place over the concept of “urban corridor districts,” which illustrate both the potential benefits and risks inherent in community redevelopment proposals. The urban corridor district proposal provides that only 50 percent of the property owners would need to consent to the changes, even if the interests of non-consenting owners are at stake. Although urban corridor districts may be used as a means of ridding property owners of excess regulation, they also run the risk of conferring regulatory powers on some property owners at the expense of others.

Sign Ordinance

The City’s sign ordinance, comprising 41 pages, is a classic example of heavyhanded government regulation. The law regulates 37 different types of signs, from business and real estate signs to flags and bulletin boards. It requires permits from the Zoning Administrator for nearly all new and altered signs and creates a blizzard of confusing regulations. The ordinance orders that all nonconforming signs (which, to quote a Charlotte Observer editorial, include those that “swing or flutter, rise too high, occupy too much of a wall, crowd a shopping center parking lot, stand too close to the street, sit on roofs, or woo passersby with flashing lights or lots of changeable type”) must be taken down or brought into compliance by the end of this year. Such onerous regulations thwart business profitability by placing decisions about advertising in the hands of bureaucrats. Such regulations ignore the fact that commercial speech is vital to free enterprise, and is protected by the First Amendment.
BUSINESS PERMITS

It is within the City's appropriate police power to reasonably regulate businesses in the interest of public health and safety. But when regulations exceed legitimate public health and safety objectives, they may unnecessarily impede entry into and conduct of legitimate business enterprises. This report examines Charlotte's regulation of entry-level businesses—that is, enterprises requiring relatively little capital or skill—because such activities particularly impact people outside the economic mainstream. Making certain that "boot-straps capitalism" is not excessively restricted is essential to ensuring upward economic mobility.

Taxicabs

Under Charlotte's current law, taxi permit applicants must demonstrate "need and necessity" for the proposed new services, which existing companies typically contest. Application of this nebulous standard resulted in two recent applicants having to wait up to three years for approval, and two other applicants still awaiting approval. Other regulations, such as requirements that companies offer citywide round-the-clock service and maintain a 24-hour dispatch facility, make single-vehicle taxicab companies impossible. As a result, would-be entrepreneurs who lack the capital for such services must lease taxicabs from existing companies at costs as high as $75 per day. These regulations place ownership of taxicab companies outside the reach of small-scale entrepreneurs.

Jitneys

Jitneys are privately owned vehicles, usually vans, that operate along fixed routes for a flat fee like buses, but stop anywhere along the route like taxicabs. They represent lowcapital entrepreneurial opportunities as well as a way to meet urban transportation needs flexibly, efficiently, and without large public subsidies.

Charlotte does not prohibit jitneys, but subsidies to existing public transit services create a competitive disadvantage.

Child Care

North Carolina imposes only modest training requirements when it comes to child care. Registered daycare home providers must be literate, have training in CPR and first aid, and submit to background checks. Administrators of large day care homes must have either a high school diploma or GED, and have certain minimal formal or practical day care training. These requirements seem carefully tailored to legitimate regulatory concerns, and do not seem to operate as a barrier to entrepreneurship.

Street Vendors

Street vendors are a classic example of entry-level entrepreneurship. They can contribute greatly to the ambiance of the city. But they are few and far between in Charlotte. The City does not impose a firm limit on the number of street vendors.
However, it has ceded control over pushcarts in the uptown Tryon Square area and for Carolina Panthers games to the Chamber of Commerce’s Central Charlotte Association. It is extremely unusual to invest private entities with regulatory power over City streets—and over other people’s livelihoods. The association’s rules may contribute to the dearth of pushcarts in the downtown area.

Trash Collection

In Charlotte, the dichotomy between oligopolistic residential trash collection and highly competitive commercial trash collection illustrates the benefits of open entry. Commercial trash collection (in contrast to residential trash collection that is largely collected by the City), is handled by a plethora of large and small trash haulers, which apparently are unregulated. The flourishing commercial trash hauling market, which provides more efficient services and greater entrepreneurial opportunities, is a model that could be applied in the residential trash collection area.

OCCUPATIONAL LICENSING

Occupational licensing in North Carolina takes place at the state level. There, boards that are comprised of members of the regulated industry have the machinery of government at their disposal, and an economic stake in stifling competition. As a result, entry into dozens of professions is strictly controlled with many entry restrictions imposed that have no correlation to protecting public health or safety, or to specialized practices for that matter. To the extent government licensing is deemed necessary for particular occupations—especially those entailing few risks and requiring comparatively little skill or capital—it should emphasize demonstrable competence and health and safety, and should not arbitrarily limit competition.

CONCLUSION

The governments of the State of North Carolina and the City of Charlotte have carefully cultivated a business-friendly environment that has reaped substantial dividends for their residents. However, State and City regulations, and the bureaucrats who administer them, often operate at cross-purposes with this proentrepreneurial philosophy. As with many excessive government regulations, the main victims are those who have the least knowledge and resources—the very people who most need access to business and employment opportunities.

Through numerous human-face examples, this report demonstrates that ordinances aren’t just meaningless words on pieces of paper—they can have profound impact on real people and their dreams for a better future for themselves and their families. The report concludes by offering recommendations on how Charlotte can match its spirit of economic liberty with its regulatory reality. These recommendations achieve the appropriate balance between public health and safety and the right to earn an honest living.
Introduction

There's nothing more American than apple pie. But try to bake one at home for sale in Charlotte and you'll find yourself crosswise with the law.

That discovery astonished Thelma Connell, a Charlotte senior citizen who was planning to can some home-grown fruits and sell them at the nearby county-owned farmers' market. She didn't encounter trouble until she called the City's health department to inspect her immaculate kitchen. Don't bother, the health officials told her: If you live in a residential area in Charlotte, zoning laws absolutely forbid anything other than "customary home occupations." And that, according to zoning administrator Robert Brandon, doesn't include making anything for sale. "It sounds sort of cold," admits Brandon, "but theoretically speaking, that's how it is."

As a consequence, when Thelma Connell visits the farmers' market with her friend, Louise Koller, who makes knitted and crocheted goods, they can buy home-baked goods and handicrafts produced outside county limits, but can't sell their own. Instead they have to cross the state line into South Carolina. Though farmers' market officials say they aren't about to enforce the silly restrictions, the two women refuse to engage in civil disobedience. "I'd know I was breaking the law, and I can't live with myself knowing I'm breaking the law," says Mrs. Connell. Louise Koller agrees: "I don't have a police record, and I don't want one."

But that doesn't mean they agree with the restriction. "This country is built on cottage industries," Louise Koller remarks. "But they're tying our hands!"

A City of Opportunity

In many ways, Charlotte exemplifies the "new South": prosperous, progressive, probusiness. It's a growing city and entrepreneurial opportunities are growing with it. But too often, government gets in the way through anachronistic and anti-competitive regulations, often enforced by bureaucrats who do not share the city's dominant entrepreneurial spirit.

According to 1994 census figures, Charlotte, with a population of 416,000, is the 34th largest city in the United States. In the past 12 years, Charlotte's population grew

Clint Bolick is vice president and litigation director at the Institute for Justice in Washington, DC. Among his publications are Grassroots Tyranny: The Limits of Federalism (Washington: Cato Institute, 1993).

Interviews for this study were conducted by the author; by Dr. Howard Husock of the John F. Kennedy School of Government at Harvard University and Dr. Husock's researchers; and by Institute for Justice research assistants Heath Weisberg and Guy Mahaffey.
by nearly one-third, making it the nation’s 15th fastest-growing city. Its population is 31.8 percent black, 1.4 percent Hispanic, and 1.8 percent Asian. Nearly four percent of Charlotte residents are foreign-born.

Although the city’s unemployment rate is low (only five percent in 1991) and its median household income of $32,000 is 14th highest among American cities, significant poverty exists. Among Charlotte’s population, 10.8 percent are below the poverty level, 5.8 percent receive public assistance, and nearly 26 percent of the households are headed by one parent.

Traditionally, entrepreneurship has proven one of the surest means of socioeconomic advancement. In a climate in which welfare reform emphasizes the transition from public assistance to work, it is vital that government make sure that all Americans have the opportunity to earn an honest living, free from arbitrary or excessive government regulation. Unfortunately, regulatory barriers imposed by every level of government often hamper creation of new enterprises, the backbone of the American economy. Most of the restrictions on entry are issued at the state and local levels, in the form of occupational and business licensing laws, fees and zoning requirements. They inflict their greatest burden on people with the fewest skills and resources, disproportionately minorities and the poor.

In addition to discouraging business creation altogether, a major effect of excessive regulation is to drive businesses underground. In such instances the government’s regulations are self-defeating for they place businesses outside the reach of both taxation and regulation. Moreover, they deprive the business owners of the opportunity to expand, for capital is unavailable to unlawful businesses.

This report is one of a series prepared by the Institute for Justice examining barriers to entrepreneurship in seven cities.** Our analysis—focusing on the regulatory climate in general and on specific entry-level businesses in particular—reveals that while Charlotte is far from the most over-regulated city, too many barriers to entry-level entrepreneurship exist at both the state and local level.

As large cities go, Charlotte is relatively pro-business. In 1995, 954 firms were started, creating 7,959 new jobs—roughly double the comparable numbers a decade ago. The City has privatized some services, including bus transportation. Both the state and local governments have streamlined their business license processes. A number of smallbusiness “incubators” exist to provide space and support for new small businesses, and the Chamber of Commerce provides training and networking opportunities.2

But while the climate unquestionably is favorable for large businesses, the rules remain rigged against new and small enterprises. Local activist Joseph Miller of the Charlotte Metro Business Council remarks, “If you are a big business in Charlotte, you have no difficulty. If you’re a small business, it’s tough.”3

**The other citites are Baltimore, Boston, Detroit, New York, San Antonio and San Diego
Red Tape, Lots of It

Before any new business can get off the ground, it must navigate what the State’s Business License Information Office aptly characterizes as an often bewildering licensing system. The State itself issues licenses and permits for more than 600 businesses, occupations, and economic activities. As the local information office observes,

The wide range of licenses required, the number of State agencies to be dealt with, the various “pieces of paper” to be filled out and filed, and the time and cost involved in submitting applications combine to frequently confuse and frustrate prospective business owners.4

Added to those are hundreds of “privilege licenses” issued by the City of Charlotte and Mecklenburg County for businesses ranging from “abattoirs” to wine sellers. Even yard sales require permit fees and their numbers are limited.

Compounding the confusion, state, county, and local jurisdictional lines are blurry and their licensing requirements are often duplicative. Louise Koller, for instance, thought she had obtained the necessary license to produce handicrafts in her home—but it turns out the fee she paid was to the State, which had nothing to do with the completely separate City license process she didn’t know about.

Moreover, the annual license fees are “inequitable” and have “no rhyme nor reason,” according to Robin B. Lewis, Charlotte’s Privilege License Supervisor.5 Most businesses are assessed an annual fee based on gross sales at a rate of 60 cents per $1,000, with a minimum fee of $50 and a maximum of $2,000. Other fees are established by state statutes in apparently arbitrary fashion. The result is cacophony: a “sign hanger” pays an annual fee of $35, while a “sign painter” pays a percentage of gross sales; undertakers pay $50 each year while a purveyor of coupon books must pay $200. Some businesses require multiple licenses: a barber pays an annual license fee of $2.50 for cutting hair but becomes a “merchant” if anything is sold in the shop, which requires an additional license fee based on gross sales. The fees bear no relation to profitability or services received: a large company requiring extensive City services and reaping a huge profit pays the same percentage of gross sales as a home-based entrepreneur who operates at a net loss.

Privilege license supervisor Lewis is candid about the purpose of the local license fees: they are not related to costs imposed by the businesses on the community, but are purely “revenue-producing taxes.” The fees raise millions of dollars annually for the City and county.

The license process itself can be costly and cumbersome. Anyone starting a business must begin with the licensing office. The proprietor fills out an application form and is assessed the applicable fees. Depending on the business, additional
approvals may be necessary from the building inspector and/or health or zoning officials. Some businesses and occupations require specialized licenses or permits. In some circumstances, both state and local permits are necessary.

Although both state and local licensing agencies try to guide would-be entrepreneurs through the regulatory thicket, the licensing maze is so arbitrary and confusing as to deter legitimate enterprises, particularly those started by immigrants with language barriers or people with limited skills or business experience. Instead of fostering bootstraps capitalism, these rules inevitably thwart start-up businesses or drive them underground.

The entire “privilege license” concept is convoluted. As the Charlotte Metro Business Council’s Joseph Miller asks, “Why am I ‘privileged’ to go into business?” In a nation whose beacon is enterprise—and in a city that purports to value enterprise—operating a business should be considered a right. As long as the government deems it a mere “privilege” in any sense, that notion surely will infect the regulatory climate that entrepreneurs face. Specific instances of regulatory overkill suggest it does just that.

Zoning and Other Business Regulations

A major recurring obstacle to entrepreneurship in urban areas is excessive regulation of private property. Particularly in older and blighted commercial districts, zoning standards often are outmoded and the process for obtaining variances typically is cumbersome and arbitrary. Common complaints in Charlotte include restricted uses, excessive parking requirements, inadequate density allowances, and limits on advertising signs. We explore some of these problems in turn.

HOME-BASED BUSINESSES

As described in the opening discussion, Charlotte zoning officials presently take the position that home-based businesses that produce goods for sale are illegal in residential neighborhoods. The City permits other types of home businesses involving “customary home occupations” under certain conditions. For example:

• The business must be clearly incidental to the residential use of the dwelling.

• The area used for the business may not exceed more than 25 percent of the first floor of the dwelling.

• No accessory buildings or outside storage may be used.
• Receiving equipment or storage of equipment, products or materials at the home is forbidden.

• The business may not use machinery that is disruptive or not ordinarily used for residential purposes, with certain exceptions.

• Only residents may work in the home office. No outside partners or employees may report to work.

• Manufacturing or assembly of products is not permitted.

• No more than three vehicles may be present at any time, and only one commercial vehicle may be used.

The City expressly forbids certain activities, such as in-home catering and commercial baking, so even if the ban on making goods for sale were lifted, these common business pursuits would remain prohibited. The sum of the regulations is to severely constrict home-based businesses in most instances and to preclude them altogether in others.

Excessive restraints on home-based businesses are antithetical to free enterprise. With the advent of modern communications technologies, home businesses provide valuable employment and entrepreneurial opportunities, particularly for single and stay-at-home parents, senior citizens, people with disabilities, and people with limited capital. In the 1990s and beyond, home and enterprise increasingly are convergent. Government regulations should reflect and encourage, rather than discourage, this positive development.

THE PROPOSED URBAN CORRIDOR DISTRICT

Some state and local governments have responded to archaic and excessive zoning regulations by creating enterprise zones or special districts that are freed from excessive regulation. In Charlotte, a great deal of debate is taking place over the concept of “urban corridor districts,” which illustrate both the potential benefits and risks inherent in community redevelopment proposals.

The urban corridor district concept would allow designated communities to adopt new zoning rules to facilitate development and improvements, subject to City Council approval. Zoning changes might include reduced parking requirements, reduced setback requirements and greater height allowances. Streamlining the process to allow community-generated changes without the necessity of individual applications for variances makes abundant sense.
But the proposal provides that only 50 percent of the property owners would need to consent to the changes, even if the interests of nonconsenting owners are at stake. As local real estate lawyer Mark Cramer warns, absent specific and adequate safeguards, “there’s a danger that the majority will just stomp all over a few property owners.”

Worried about the impact on his small lighting store, business owner Vernon Simpson laments,

They want to look back and see the oldtimey way of doing things. That’s not the future. The future is where we need some parking. If I had to depend on people parking a few blocks away and walking, I’d close up.

Remarks by urban planners in this context make such fears salient. Michael Beyard, senior director of research for the Urban Land Institute declares,

People wouldn’t put up with a bedraggled look in a shopping center. I don’t know why you would want to impose lower standards on an urban environment. If anything, an urban environment might require higher standards.

Dismissing concerns of dissenting property owners, Beyard remarked, “The question is, what’s in the public interest?”

The urban planners who advocate urban corridor districts may have an idealized vision in mind. “These people have a view of America as how they think it should be,” quips the Charlotte Metro Business Council’s Joseph Miller. But in the process they should take special care not to disrupt individual property rights.

A recent meeting of the City Council’s Economic Development Committee suggests that local government is sensitive to the competing concerns implicated by the urban corridor district proposal. A general consensus was expressed that the purpose of the districts is to allow property owners to do things they cannot do now, but not to force individual property owners to do things they don’t want to do. The committee has urged development of a limited test proposal. To the extent that urban corridor districts are used solely as a means of ridding property owners of excess regulation—and not to confer regulatory powers upon some property owners at the expense of others—they may prove an important boon to economic development.

**SIGN ORDINANCE**

In 1988, the City of Charlotte adopted a new chapter of the zoning ordinance dealing with advertising signs. Comprising 41 pages, the sign ordinance is a classic example of heavy-handed government regulation. As the *Charlotte Observer* describes it,
Banned by the new ordinance are all sorts of signs: those that swing or flutter, rise too high, occupy too much of a wall, crowd a shopping center parking lot, stand too close to the street, sit on roofs, or woo passersby with flashing lights or lots of changeable type.\textsuperscript{11}

The law regulates 37 different types of signs, from business and real estate signs to flags and bulletin boards. It requires permits from the Zoning Administrator for nearly all new and altered signs and creates a blizzard of confusing regulations. It severely restricts billboards.

After the law was adopted, certain business signs were grandfathered, but the restrictions come into effect if the nature of the business changes or the sign changes. The regulations do apply, however, to all existing billboards. The ordinance provides that all nonconforming signs must be taken down or brought into compliance within eight years (that is, by 1996). The law euphemistically refers to this compliance period as “amortization,” making the assumption that the owner of the sign would fully realize a return on investment during that period. The amortization period has expired, and the authorities have swooped down on nonconforming signs: Notices of violations have been sent out, embroiling business owners in lengthy variance processes and exposing them to untold costs.

The sign ordinance has worked severe hardships on businesses. One company, a restaurant called the Sandwich Construction, which is located near the Charlotte Motor Speedway, had three car shells erected on its roof as a way of advertising. Because the sign ordinance prohibits advertising signs on roofs, the City ordered the company to take the cars down. The company eventually gathered enough support to obtain an exemption, but other companies face similar difficulties.

Another affected property owner was the Westover Hills Presbyterian Church, whose simple wooden sign has dangled from a steel post for two decades. But because the sign swings, it was considered nonconforming. “I really think it’s ridiculous, myself,” said Rev. Robert Hough, the church’s pastor. “I think it’s overstepping regulation.” Added neighbor Kevin Mickle, “I don’t think the Lord would like it if they made that sign smaller.”\textsuperscript{12}

Advertising companies feel the impact most severely. One company, Adams Outdoor Advertising of Charlotte, has incurred costs exceeding $100,000 since late 1995 for appeals, extensions, survey costs and legal fees. If the Adams signs are removed as the ordinance specifies, annual lost revenues will exceed $1.15 million. “This whole situation readily explains why the citizenry has become so fed up with government in general as well as the bureaucrats it breeds,” laments John Kruizenga, Adams’ real estate manager.\textsuperscript{13}

The same City that encourages businesses on one hand thwarts profitability by placing decisions about advertising in the hands of bureaucrats. Commercial speech is vital to free enterprise, and is protected by the First Amendment. If the
City values subjective aesthetic concerns above commercial speech, it should compensate business owners for the loss of their rights. Better still, it should recognize that advertising is essential to the health of the business community and re-evaluate the scope and complexity of its advertising regulations.

**Business Permits**

Certain businesses require specialized permits that the City may limit and regulate. Of course, it is within the City's appropriate police power to reasonably regulate in the interest of public health and safety. But when regulations exceed legitimate public health and safety objectives, they may unnecessarily impede entry into and conduct of legitimate business enterprises. We examined Charlotte's regulation of entry-level businesses—that is, enterprises requiring relatively little capital or skill—because such activities particularly impact people outside the economic mainstream. Making certain that "boot-straps capitalism" is not excessively restricted is essential to ensuring upward economic mobility.

**TAXICABS**

In many cities, driving and owning a taxicab is a common entry-level entrepreneurial pursuit. Less so in Charlotte, which instituted a temporary moratorium on new taxicab permits and whose rules governing such permits are unclear.

Unlike more restrictive cities such as New York, Charlotte has no permanent limit on the number of taxicab permits. According to officials in the Office of the Taxicabs Inspector, between 400-475 taxi permits are in use by approximately 11 companies. The permits cost only $15, and "medallions" required for each taxicab cost an additional $75 per year. Applicants must complete a single application form, demonstrate financial capability, submit to a background check, and have their taxicabs inspected.

However, under current law, permit applicants also must demonstrate "need and necessity" for the proposed new services, which existing companies typically contest. In other cities, this standard has resulted in a de facto oligopoly for existing taxicab companies. In Charlotte, application of this nebulous standard resulted in two recent applicants having to wait up to three years for approval, and two other applicants still awaiting approval. The original taxicab ordinance instructed the City's Transportation Department to conduct an annual survey of need and necessity, but the department appealed for guidelines.
The confusion over the need and necessity standard led the City to impose a moratorium on new permits while it considers a new ordinance. A draft proposal would delete the need and necessity requirement, but would allow the council to impose moratoriums if it determines there are too many cabs.

Other regulations make single-vehicle taxicab companies impossible. The City requires that companies offer citywide round-the-clock service and maintain a 24-hour dispatch facility. As a result, would-be entrepreneurs who lack the capital for such services must lease taxicabs from existing companies at costs as high as $55 to $75 per day. These regulations place ownership of taxicab companies outside the reach of smallscale entrepreneurs.

Additionally, the Charlotte/Douglas International Airport limits slots for airport pickups to 80 permits divided among eight companies. The municipally owned airport charges $312.50 per quarter for a permit.15

JITNEYS

"Jitneys" are privately owned vehicles, usually vans, that operate along fixed routes for a flat fee like buses, but stop anywhere along the route like taxicabs. They are mainstays of transportation systems in many cities in Latin America and Asia, and they represent low-capital entrepreneurial opportunities as well as a way to meet urban transportation needs flexibly, efficiently, and without large public subsidies. Most cities banned jitneys in the early part of the 20th century to protect streetcars against competition. Today, jitney bans are supported primarily by public transportation unions seeking to protect high-wage jobs in heavily subsidized public transit systems.

No explicit prohibition against jitneys seems to exist in Charlotte, but subsidies to existing public transit services create a competitive disadvantage. City Council member Don Reid, a privatization advocate, favors jitneys both as transportation alternatives and as "feeders" to publicly subsidized transportation. He believes public transit subsidies make jitneys uncompetitive. One possibility, he suggests, is to allow jitneys to operate along site-to-stadium routes for Carolina Panthers games, a service now provided by the monopoly bus company at a subsidized $1.50 rate. "We should look to the private sector first," says Reid, "and we should not in any case subsidize the fares to get to the game."16

Jitneys make sense from the standpoint of both entrepreneurs and consumers. As a transition step, the City might consider bidding bus routes to private competitors, or eliminating routes wherever the private sector appears capable of filling transportation needs.
CHILD CARE

Child care, particularly in the home, represents not only a viable means of self-employment, but also an important service that allows other people to pursue work opportunities. Fortunately, the regulatory environment is hospitable, aimed at protecting children without discouraging child-care enterprises.

Aside from restrictions applicable generally to home-based businesses in Charlotte, regulation of day-care homes takes place at the state level. Small day-care homes—which may have up to five pre-school and three school-age children—do not require licenses and need only register with the State. "Large home" programs, which may care for up to 15 youngsters, must obtain licenses from the State. The State does not charge either for registration or licenses.

Training requirements are modest. Registered day-care home providers must be literate, have training in CPR and first aid, and submit to background checks. Administrators of large day-care homes must have either a high school diploma or GED, and have certain minimal formal or practical day-care training. The only problem we encountered is that some training programs are conducted only in English, making it difficult for non-English-speaking individuals to enter the child-care business. Otherwise, however, the requirements seem carefully tailored to legitimate regulatory concerns, and do not seem to operate as a barrier to entrepreneurship.

STREET VENDORS

Street vendors are a classic example of entry-level entrepreneurship. They can contribute greatly to the ambiance of the city. But they are few and far between in Charlotte. It is not clear whether the small number of vendors is the result of regulation, taxation, or an insufficient customer base, but the thriving business enjoyed by existing street vendors suggests that this form of enterprise could prove fruitful for others as well.

Street vendors are regulated by the City. Food pushcart vendors must apply for a City/county license, which costs $75. They also must be inspected by the Department of Environmental Health, and are required by the State to carry $400,000 in liability insurance. Non-food vendors must obtain a merchant itinerant license, which costs $200.17

The City does not impose a firm limit on the number of street vendors. However, it has ceded control over pushcarts in the uptown Tryon Square area and for Carolina Panthers games to the Chamber of Commerce’s Central Charlotte Association.18 It is extremely unusual to invest private entities with regulatory power over City streets—and over other people’s livelihoods. The association’s rules may contribute to the dearth of pushcarts in the downtown area.
The association has published a booklet of regulations. In addition to the ordinary permits required from the State and City, vendors in this area also must pay a $35 application fee and a $150 permit fee. Although 40 pre-approved street vendor locations exist in the area, only approximately 15 permits are in use.

Vendors in county parks must obtain separate permits and carry $1 million in liability insurance. The Mecklenburg County Parks and Recreation Department uses a “request for proposals” process through which it awards permits, and it charges vendors up to 25 percent of gross receipts.

The confusing, duplicative, and costly regulatory regime may contribute to the paucity of street vendors in Charlotte, thereby foreclosing to many a promising avenue for entrepreneurship.

**TRASH COLLECTION**

Residential and business trash collection can provide an important source of small-scale entrepreneurship. Additionally, it is an excellent way for community enterprises to serve their own people and keep revenue in the neighborhood. In Charlotte, the dichotomy between oligopolistic residential trash collection and highly competitive commercial trash collection illustrates the benefits of open entry.

Until recently, the City’s Sanitation Department had an exclusive monopoly over residential trash collection. But in 1995, the City divided its residential sections into quadrants and allowed private firms to bid for trash collection in one of the quadrants. Four bidders competed and the five-year contract was awarded to Browning-Ferris Industries. Because of the large scale of the contract, smaller companies did not compete. City officials are pleased with the private contractor's efficiency and plan to bid out a second contract next April.

Commercial trash collection, by contrast, is handled mainly by a plethora of large and small trash haulers, which apparently are unregulated. The flourishing commercial trash hauling market is a model that could be applied in the residential trash collection area, providing more efficient services and greater entrepreneurial opportunities.

**Occupational Licensing**

As in most jurisdictions, occupational licensing in North Carolina takes place at the state level. Entry into dozens of professions is strictly controlled.
Some of the restraints on entry-level occupations appear excessive. For instance, anyone who styles or arranges women’s hair must obtain a “cosmetic art” license, which entails 1,500 hours of prescribed classes plus an examination (or specified training under the supervision of a licensed professional for an apprentice license). Much of the training bears little relationship to specialized practices, such as African hairbraiding. Consequently, many such practitioners, even if they are proficient in their specialty, must operate outside the law.

Moreover, occupational licensing usually is regulated by boards comprised of members of the regulated industry, who have the machinery of government at their disposal and an economic stake in stifling competition. As a result, many entry restrictions are unnecessary to protect public health or safety.

Provided that they conform to local zoning requirements, the State technically allows in-home hairstyling salons. But all salons must have separate entrances, and must be separated from rooms used for other purposes by seven-foot walls. These and other requirements make it difficult for people to style hair as home businesses.

Nail manicurists, by contrast, may obtain a separate license with 150 hours of specialized training. The local market increasingly is dominated by Asian immigrants, who have helped swell the number of licensed manicurists from about 400 in 1987 to 2,736 today. Half of the people who took the State licensing examination last March were Asian. As the News & Observer reports, “hundreds of Vietnamese . . . have found that pampering the hands of American women is one fast route from poverty to the middle class.”

Monica Tran, a young immigrant whose family escaped genocide in Cambodia when she was six, is co-owner of a nail salon with her husband. Working with family members, the Trans put in 80-hour weeks until the salon was a success. “My goal is to become a millionaire by the time I’m 30,” Monica Tran confidently asserts.

But what the new entrepreneurs have gained through enterprise and hard work, others consider “unfair competition.” Some disgruntled practitioners predictably have called for tighter regulation of fingernail manicuring.

The cosmetic art license illustrates a common theme among occupational licensing: Restrictions on entry often exceed valid health and safety objectives and are not always tailored to specialty occupations. A well-trained African hairbraider, for instance, may be extremely proficient yet not be able to demonstrate competence in unrelated hair processes. State and local governments should look first to private certification processes. To the extent government licensing is deemed necessary for particular occupations—especially those entailing few risks and requiring comparatively little skill or capital—it should emphasize demonstrable competence and health and safety, and should not arbitrarily limit competition.
Entry into other occupations that require licenses from the State often entail similar unnecessary obstacles. So long as government regulations exceed reasonable health and safety objectives, the opportunity to pursue chosen means of livelihood will remain unnecessarily constrained.

Conclusion

The North Carolina state government and Charlotte city government have carefully cultivated a business-friendly environment that has reaped substantial dividends for their residents. However, State and City regulations, and the bureaucrats who administer them, often operate at cross-purposes with this pro-entrepreneurial philosophy. The maze of regulations many entrepreneurs face in Charlotte and elsewhere is so cumbersome and bewildering as to make people think twice about even trying to operate a legitimate business. Opening an enterprise should require business acumen, not a law degree. As with many excessive government regulations, the main victims are those who have the least knowledge and resources—the very people who most need access to business and employment opportunities.

As Professor Jack Sommer of the University of North Carolina at Charlotte aptly summarizes it:

Government action to protect citizens and to remove previously erected barriers to economic transformation is necessary. Although this type of government action cannot guarantee that all distressed cities will survive, it will be more therapeutic than a patchwork of social programs.22

We offer the foregoing observations and the following recommendations in the spirit of matching Charlotte’s spirit of economic liberty with its regulatory reality.

Recommendations

1. Review all laws and regulations that impede entrepreneurship. This report obviously only skims the vast array of business regulations. The State and City should examine all laws and regulations that restrict entry into businesses and occupations. The appropriate regulatory touchstone should be whether the restriction is reasonably necessary and carefully tailored to fulfill legitimate public health and safety objectives. Any rules that do not meet this standard should be repealed or reformed.
2. **Abolish or streamline and rationalize the business licensing process.** As licensing officials candidly admit, state and local business-licensing processes are confusing and fees are arbitrary and inequitable. Reform requires two conceptual changes. The first is to abandon the notion of “privilege” licenses: the opportunity to operate a business is a right, not a privilege, and the creation of businesses benefits everyone. Second, the State and City should determine whether the cost and bureaucracy involved in business licensing is justified at all. If so, the duplicative state and local processes should be combined, processes should be simplified and fees should be tailored to the costs imposed on the community by the business. Fees should be eliminated for small start-up businesses.

3. **Ease regulations on home businesses.** The City should legitimize home businesses and ease onerous regulations. The City has a legitimate regulatory objective in maintaining the residential character of neighborhoods, but the current regulations far exceed that objective. Moreover, technological advancements and the demands of work and families have rendered obsolete the sharp distinction between home and business. People should be able to make products for sale—such as home-baked items, embroidered goods, and simple carpentry—that are fully compatible with residential neighborhoods. Home-based catering should be allowed so long as kitchens satisfy health standards. Home businesses should be able to use garages, sheds or other ancillary buildings. They should be allowed to have one or two outside employees and parking restrictions should be eased.

4. **Protect private property rights.** The City should proceed with its proposed urban corridor district experiment, allowing flexible rezoning to facilitate economic development. However, the rules adopted should not diminish the rights of individual property owners. The districts should be allowed to facilitate an expansion of permissible uses and an easing of existing requirements, but should not be allowed to impose new or more stringent restrictions or requirements.

5. **Reconsider the sign ordinance.** The right to operate a business means little if the business owner cannot advertise. The stringent rules embodied in the sign ordinance are excessive. Blanket prohibitions against swinging signs, rooftop signs, and the like—even if accompanied by grandfather provisions for existing signs—are unduly restrictive. Likewise, the notion of an eight-year “amortization” for billboards overlooks the fact that future profits and the communication of commercial speech are curtailed. The City should forbid only those signs that constitute a nuisance, or at least relax and simplify its rules and provide for an efficient review process.

6. **Open entry to taxicabs.** The taxicab business is a classic means of entry-level entrepreneurship. The “need and necessity” standard is arbitrary and serves to protect existing companies from competition. Regulations should be geared toward ensuring public health and safety, such as insurance and inspection requirements, and not restricting competition. Rules on round-the-clock service and 24-hour dispatching should be eliminated to allow driver-owned companies to operate. Restrictions on taxicab pickups at the Charlotte/Douglas International Airport should be eased and fees lowered.
7. **Facilitate competition in public transportation.** The City should look to private entrepreneurs to meet public transportation needs, such as the possibility of allowing jitneys to replace, compete with, or augment publicly subsidized Charlotte Transit buses on various routes.

8. **Deregulate street vendors.** The City should investigate the paucity of street vendors in downtown Charlotte. The City's decision to turn over the street vendor permit process in the Tryon Square and stadium areas to the Chamber of Commerce is problematic, for it essentially has transferred governmental authority to a self-interested private entity. If the City finds that the permit or regulatory process is unduly thwarting entrepreneurship, it should adjust the rules accordingly.

9. **Privatize trash collection.** Building on the success of its partial privatization of residential trash collection, the City should allow companies to compete for smaller areas, thereby facilitating entry into the market by smaller companies. Non-profit enterprises such as community organizations should also be invited to compete as a means of providing community empowerment and employment opportunities.

10. **Deregulate occupational licensing for entry-level occupations.** The State should eliminate or relax occupational licensing requirements for professions requiring relatively little skill or capital. In each instance, it should consider whether private certification could adequately serve public health and safety objectives. It should also focus on measuring proficiency in the particular area of practice (such as hairbraiding), rather than requiring that the proficiency is attained in a particular manner. Real-world experience often is far superior to formal training.

We believe these recommendations achieve the appropriate balance between public health and safety and the right to earn an honest living. We sincerely wish the people of Charlotte continued prosperity and increased opportunities.
End Notes


3 Interview with Joseph Miller, August 23, 1996.

4 Business License Information Office brochure.

5 Interview with Robin Lewis, August 22, 1996.

6 Interview with Russell Stepp, Department of Environmental Health.


8 Quoted in Ball, “New Retail Corridor Rules.”

9 Quoted in Ball, “New Retail Corridor Rules.”

10 Public meeting of the Economic Development Committee, September 9, 1996.


12 Quoted in Ball, “So Long, Signs.”


14 Interviews with Julia Craig and Joanne Miller, Office of the Taxicabs Inspector.

15 Interview with Herbert Judon, Charlotte/Douglas Regional Airport.

16 Interview with Don Reid, September 6, 1996.

17 Interviews with Robin Lewis: Russell Stepp, Department of Environmental Health; Molly Hedrick, Charlotte Chamber of Commerce; and Brian Cox, Mecklenburg County Parks and Recreation Department.

18 Interview with Molly Hedrick, Charlotte Chamber of Commerce.

19 Interview with Brian Garrett, Administrative Officer of the Department of Solid Waste Services.


Biography

CLINT BOLICK
Vice President and Director of Litigation

Clint Bolick serves as vice president and director of litigation at the Institute for Justice, which he co-founded in 1991 to engage in constitutional litigation protecting individual liberty and challenging the regulatory welfare state. The Institute also teaches public interest litigation skills to lawyers, law students, and policy activists.

Among the cutting-edge cases Bolick has litigated are the successful defense of the nation's first school voucher program in Milwaukee and challenges to entrepreneurial barriers around the country. Bolick is credited with leading the opposition to President Bill Clinton's nomination of Lani Guinier as assistant attorney general for civil rights.

Bolick has authored several books and articles, including the recently published The Affirmative Action Fraud: Can We Restore the American Civil Rights Vision? (Cato Institute, 1996); and Grassroots Tyranny: The Limits of Federalism (Cato Institute, 1993).

Bolick received his law degree from the University of California at Davis in 1982, and his undergraduate degree from Drew University in 1979.

The Institute for Justice was co-founded by its president and general counsel, William H. (Chip) Mellor III, and Bolick.