

**THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN
ORDINANCE G-20-18**

AN ORDINANCE concerning
Temporary expansion of mobile food unit operations

FOR the purpose of allowing mobile food units to operate in nonresidential areas during the ongoing COVID-19 pandemic; establishing a sunset provision; and otherwise generally pertaining to mobile food units within the City of Frederick.

BACKGROUND

An outbreak of disease ("COVID-19") caused by the novel coronavirus occurred in China in late 2019 and has currently been detected worldwide and in every state within the United States. COVID-19 is a serious respiratory disease, resulting in illness or death, caused by the person-to-person spread of the novel coronavirus, which was not previously found in humans. The World Health Organization (WHO) and the Centers for Disease Control and Prevention (CDC) have declared the COVID-19 outbreak a "public health emergency of international concern", and the Secretary of the U.S. Department of Health and Human Services has declared that COVID-19 creates a public health emergency.

In response to the COVID-19 pandemic, Governor Hogan issued a proclamation declaring a state of emergency and catastrophic health emergency for the State of Maryland on March 5, 2020; such state of emergency has been renewed several times subsequently and currently remains in effect. As a mechanism to support local mobile food units and increase their opportunity to generate income during the emergency, the City wishes to temporarily expand the permitted locations and times of the operation of such mobile food units, subject to certain terms and conditions as described herein.

SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK THAT:

- (a) **Definitions.** For the purposes of this ordinance, the following terms have the meanings given:
- (1) "Director" means the Director of Public Works or the Director's designee.
 - (2) "Mobile food unit" means a food service establishment that is self-propelled or otherwise designated to be movable from place to place, including but not limited to a licensed, motorized vehicle, mobile kitchen, cart, stand, or tent, and which operates temporarily to sell food items to the general public.
 - (3) "Mobile food vendor" means the operator of a mobile food unit.
 - (4) "Nonresidential property" means any real property that is not defined as a residential property under the Vendor/Peddler Ordinance.
 - (5) "Vendor/Peddler Ordinance" means Chapter 29, Article III of the Frederick City Code.

(b) Relationship with other laws.

- (1)** This ordinance shall be construed as a temporary amendment to the Vendor/Peddler Ordinance. Except as otherwise provided in this ordinance, the provisions of the Vendor/Peddler Ordinance remain effective and applicable to the licensing and operation of mobile food units. This ordinance has no effect on Chapter 29, Article III of the Frederick City Code.
- (2)** The requirements of this ordinance are in addition to, and not in place of, the requirements of the Maryland Annotated Code, Health-General Article, Title 21, Subtitle 3, statutes relating to liquor licensing or public health, or any other applicable state law.

(c) Administration. The Director may develop and implement administrative regulations as needed for the efficient implementation and enforcement of this ordinance.

(d) Location and hours.

- (1)** In addition to the areas of operation allowed under Section 29-11(b)(1) of the Vendor/Peddler Ordinance, a mobile food unit may operate on a privately owned nonresidential property with the permission of the property owner.
- (2)** A mobile food unit may operate between 9:00 and 9:00 p.m. each day during the license period and may remain on a particular property for all or part of that 12-hour period. This paragraph supersedes Sections 29-10(c) and 29-10(e) of the Vendor/Peddler Ordinance to the extent of any inconsistency.
- (3)** As provided in the Vendor/Peddler Ordinance, a mobile food unit may not operate on more than one residential property in the same block of a street in one day.
- (4)** As provided in the Vendor/Peddler Ordinance, mobile food units licensed under this ordinance may not operate in the Frederick Town Historic District, with the exception of Carroll Creek Linear Park.

(e) Licenses.

- (1)** Prior to operating a mobile food unit in accordance with this ordinance, a mobile food vendor shall obtain a license in accordance with Sections 29-6 through 29-8 of the Vendor/Peddler Ordinance. If the mobile food unit is proposed to be operated on private property, the application must include or be accompanied by written permission of the property owner.
- (2)** A license that authorizes a mobile food unit to operate on a nonresidential property in accordance with this ordinance is valid starting on the date of its issuance and ending on the earlier of October 31, 2020 or the day the Governor of Maryland rescinds the current state of emergency.

(f) Revocation. Nothing in this ordinance shall be construed to limit the authority of the City to modify or revoke a license. The City may cancel a license affected by the provisions of this ordinance if the City determines that the license holder violates this ordinance or any condition of the permit or the operation of an mobile food unit presents

a threat to the public health, safety, or welfare of its citizens. Before revoking a license, the Director shall provide written notice to the license holder setting forth the grounds for and effective date of the revocation.

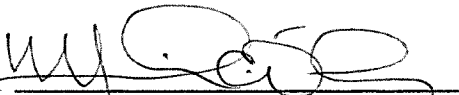
- (g) **Penalties.** This ordinance will be enforced under Section 29-12 of the Vendor/Peddler Ordinance.

SECTION II. AND BE IT FURTHER ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That this ordinance shall take effect on the date it is signed by the Mayor and shall remain effective until it automatically expires on the earlier of October 31, 2020, or the date on which the current state of emergency and catastrophic health emergency, as declared by Governor Hogan on March 5, 2020, is terminated, and as of the date of such expiration, with no further action required by the Board of Aldermen, shall be abrogated and of no further force and effect, with the exception of the enforcement provisions as stated therein.

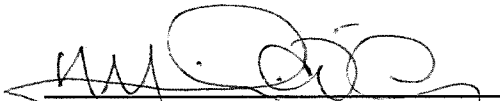
SECTION III. AND BE IT FURTHER ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That this ordinance expressly supersedes any conflicting provision in any ordinance, regulation, or policy, to the extent of the inconsistency. This ordinance shall be construed to give full effect to the language set forth herein.

SECTION IV. AND BE IT FURTHER ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That 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 remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

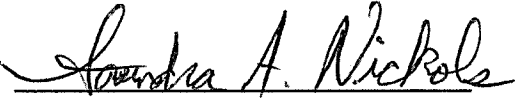
APPROVED: *August 6, 2020*


MICHAEL C. O'CONNOR, Mayor
Board of Aldermen

PASSED: *August 6, 2020*


MICHAEL C. O'CONNOR, President,

Approved for Legal Sufficiency:


Sandra A. Nichols
City Attorney