

**THE CITY OF FREDERICK  
MAYOR AND BOARD OF ALDERMEN**

**ORDINANCE NO: G-22-08**

**AN ORDINANCE** concerning the sale of food and other goods

**FOR** the purpose of allowing mobile food units to operate on certain nonresidential properties; revising certain licensing requirements for mobile food units associated with breweries, wineries, and distilleries; clarifying language; updating references; and otherwise relating to the sale of food and other goods within the City of Frederick.

**BY** repealing

Chapter 29

The Code of the City of Frederick, 1966 (as amended)

**BY** adding

Chapter 29

The Code of the City of Frederick, 1966 (as amended)

**SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK**, That Chapter 29 of The Code of the City of Frederick, 1966 (as amended), entitled "Sales of Food and Other Goods", is hereby repealed and a new Chapter 29 is added to read as follows:

**Chapter 29. SALES OF FOOD AND OTHER GOODS**

**ARTICLE I. IN GENERAL**

**Sec. 29-1. Definitions.**

- (a) **In general.** For the purposes of this chapter, the following terms have the meanings indicated.
- (b) **Department.** "Department" means the Department of Public Works.
- (c) **Director.** "Director" means the Director of Public Works or the Director's designee.
- (d) **Fee Schedule Ordinance.** "Fee Schedule Ordinance" means the schedule of administrative and regulatory fees as enacted by the City and in effect at the time of application.
- (e) **Land Management Code or LMC.** "Land Management Code (LMC)" means Appendix A of this Code.
- (f) **Mobile food unit.** "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 on a premises where food items are sold to the general public.

- (g) **Nonresidential property.** "Nonresidential property" means any real property that is not a residential property as defined in this section.
- (h) **Residential property.** "Residential property" means property located in:
  - (1) The residential component of an MU-1, MU-2, or MXE district; or
  - (2) Any of the following zoning districts:
    - (A) PRK;
    - (B) RC;
    - (C) R4;
    - (D) R6;
    - (E) R8;
    - (F) R12;
    - (G) R16;
    - (H) R20;
    - (I) RO; or
    - (J) DR.

**Sec. 29-2. Administration.**

The Director may develop and implement administrative regulations as needed for the efficient implementation and enforcement of this chapter.

**Sec. 29-3. Other laws and entitlements.** The requirements of this chapter are in addition to, and not in place of, the requirements of the Maryland Annotated Code, Health-General Article, Title 21, Subtitle 3 or any other applicable state law. Compliance with this chapter does not eliminate the need for compliance with any other applicable law or regulation, including but not limited to those relating to zoning, liquor licensing, public health, building, property maintenance, and industrial pretreatment. A license issued under this chapter does not confer any form of permanent land use entitlement to the person associated with the license.

**ARTICLE II. VENDORS AND PEDDLERS**

**Sec. 29-4. Definitions.**

- (a) **In general.** For the purposes of this article, the following terms have the meanings indicated.
- (b) **Vendor.** "Vendor" means any person temporarily occupying a place of business, rather than maintaining within the City an established, permanent place of business, for the purpose of selling, or offering to sell, commodities to the public.

- (c) **Peddler.** "Peddler" means any person selling, or offering to sell, commodities from house to house, or place to place, or without moving from place to place, selling or offering to sell commodities from a pack, wagon, or other movable structure. "Peddler" includes the operator of a mobile food unit.
- (d) **City-sanctioned special event.** City-sanctioned special event means any festival or other event coordinated, administered, and promoted by the City's Office of Special Events.

**Sec. 29-5. License - generally.**

- (a) **Requirement.** Except as otherwise provided in this article, a person may not engage in the business of a vendor or peddler without first obtaining a license as provided in this chapter.
- (b) **Exemptions.** The following activities are exempt from the provisions of this article:
  - (1) The sale of goods directly to manufacturers, wholesalers or retail establishments for use in their business or for resale;
  - (2) The order of goods for future delivery;
  - (3) In person visits to a residence or business with the intent to sell, or offer for sale, goods at the request or invitation of the owner or occupant;
  - (4) The sale of goods incidental to the delivery of goods to regular customers;
  - (5) Produce stands or temporary farmers markets in accordance with Section 867 of the LMC;
  - (6) The sale of food or other goods at a winery, brewery, or farm brewery permitted as a conditional use under Section 857 of the LMC;
  - (7) The sale of food or other goods in connection with a City-sanctioned special event in accordance with Article III of this chapter; and
  - (8) The sale of food from a mobile food unit in accordance with Article IV of this chapter.

**Sec. 29-6. License—application.**

- (a) **Form.** The Director shall create and provide application forms for licenses. Any person seeking a license shall file a completed application with the Department.
- (b) **Information.** The information required by the application will include:
  - (1) The name, address, telephone number, physical description, and a photograph showing the head and shoulders in a clear and distinguishing manner, for each individual applicant and for any person who will be conducting or managing the business for or on behalf of the applicant;

- (2) A Maryland state retail sales tax number and proof of eligibility to do business in Maryland, including copies of any permits or licenses required by Maryland or Frederick County;
  - (3) If the applicant proposes to operate as a vendor, selling or offering for sale commodities from a fixed location, a description of the location, hours and days during which the applicant proposes to conduct business from the location, and the length of time during which it is proposed that the business will be conducted from the location;
  - (4) If the applicant proposes to operate as a peddler, selling, or offering for sale commodities from house to house or place to place, a statement or description of the areas of the city the applicant proposes to frequent, the hours and days during which the applicant proposes to conduct the business, a statement or description of any routes of travel to be followed, and, if sales are to be made from a movable structure, a complete description of it, including any federal or state registration numbers, license numbers, and ownership of all vehicles to be used in the business;
  - (5) A statement or description of the nature and character of the business to be conducted and the commodities to be sold or offered for sale by the applicant;
  - (6) A statement as to whether the applicant or any person who will be conducting, managing, administering or supervising the business to, for or on behalf of the applicant, has been convicted of any crime or violation of any municipal code or ordinance, and if so, the nature and date of the offense, the jurisdiction in which the offense was heard, and the nature of the punishment or penalty assessed;
  - (7) If the applicant proposes to sell, or offer for sale, foodstuffs of any type, proof of inspection by and approval of the county health department;
  - (8) Any other reasonable information as to the identity or character of the applicant or any of the individuals who will be conducting, managing, supervising or administering the business for or on behalf of the applicant, or the method or plan of conducting the business as the Director may deem necessary or proper in order to determine the fitness of the applicant to have the license issued, for the protection of the public health, safety and welfare.
- (c) **Fee.** An application must be accompanied by any fee required under the Fee Schedule Ordinance.

**Sec. 29-7. License—action.**

- (a) **Determination.** The Director shall review a submitted application for compliance with this article. In deciding whether to issue a license, the Director should consider potential effects of the proposed application on the public health, safety, or welfare, including any relevant history with respect to a previously-issued license.
- (b) **Approval.** If the Director finds that the applicant meets the requirements of this chapter and, after consideration of the factors described in subsection (a) of this section,

determines that a license should be issued, the Director shall approve the application and shall issue a license to the applicant. The Director may attach additional reasonable conditions to the license if reasonably necessary to protect the public health, safety, or welfare.

- (c) **Denial.** If the Director determines that a license should be denied, the Director shall set forth the reasons for the denial in writing and provide it to the applicant.
- (d) **Final decision.** The decision to issue or deny any license under this article is final.
- (e) **Term.** All licenses issued under this article will expire at 12:00 a.m. on the first December 31 following the issuance of the license. The full amount of the license must be paid regardless of the date on which the license is issued.

**Sec. 29-8. General operating conditions.**

- (a) **Display of license.** The license issued to the applicant shall be clearly and prominently displayed at the fixed location or on any movable structure used in connection with the activity licensed under this article.
- (b) **Refuse.** Each person issued a license under this article shall provide, at their own expense, separate containers for the disposal of recyclable and nonrecyclable refuse and shall remove both containers and dispose of said refuse at the end of each business day.

**Sec. 29-9. Days and hours of operation.**

- (a) **Duration.** A vendor or peddler may not operate continuously for a period of more than six weeks at one time.
- (b) **Hours.** Hours of operation for all those persons licensed under this article are between 10:00 a.m. and dusk each day.

**Sec. 29-10. Areas of operation.**

- (a) **Permitted areas.**
  - (1) Except as otherwise provided in paragraph (2) of this subsection, vendors and peddlers licensed under this article may operate on any residential property and may not operate in any other area.
  - (2) Vendors and peddlers licensed under this article may not operate in the Frederick Town Historic District, with the exception of Carroll Creek Linear Park.
- (b) **Special events.** Vendors or peddlers who do not possess a special events license under Article III of this chapter must maintain a minimum distance of 1,000 feet from the perimeter of any City-sanctioned special event while conducting business.

**Sec. 29-11. Violations and penalties.**

A person violating any provision of this article is guilty of a municipal infraction, punishable by a fine of \$400, and shall immediately be required to cease and desist all activities, and have any license to operate issued under this article revoked.

**ARTICLE III. SPECIAL EVENTS.**

**Sec. 29-12. License - required.** A person may not engage in the business of a vendor or peddler, including the operation of a mobile food unit, at a City-sanctioned special event without first obtaining a license as provided in this article.

**Sec. 29-13. License – application.** Any person wishing to participate as a vendor or a peddler in connection with a City-sanctioned special event shall file with the Office of Special Events (OSE), on forms supplied by OSE, the information required under Section 29-6 of this chapter. An application must be accompanied by any fee required under the Fee Schedule Ordinance.

**Sec. 29-14. License-action.**

- (a) **Determination.** Upon receipt of the application, and any reports or recommendations requested, OSE shall decide whether or not to issue the license for which application has been made. OSE should consider whether the activities proposed to be undertaken would be contrary to law or would pose a hazard to pedestrian, structural or vehicular safety, vehicular sight distance, and whether the granting of the license might be detrimental to the public health, safety or welfare. OSE may also consider any relevant history with respect to a license previously issued under this chapter.
- (b) **Approval.** If OSE finds that the applicant meets the requirements of this chapter and, after consideration of the factors described in subsection (a) of this section, determines that a license should be issued, OSE shall approve the application and shall issue a license to the applicant.
- (c) **Denial.** If OSE determines that a license should be denied, OSE shall set forth the reasons for the denial in writing and provide it to the applicant.
- (d) **Final decision.** The decision to issue or deny any license under this article is final.

**ARTICLE IV. MOBILE FOOD UNITS**

**Sec. 29-15. License-generally.** Except as otherwise provided in this chapter, a person may operate a mobile food unit only in accordance with a license issued under this article.

**Sec. 29-16. License-application.**

- (a) **Form.** A person seeking a mobile food unit license shall file a completed application with the Department, on a form provided by the Department.
- (b) **Information.** The information required by the application will include:

- (1) A scaled sketch plan showing all pertinent features of the area affected, including property lines, building footprint, sidewalks, obstacles, parking, and the proposed location of the mobile food units; and
  - (2) The proposed hours of operation of the mobile food unit.
- (c) **Fee.** An application must be accompanied by any fee required under the Fee Schedule Ordinance.

**Sec. 29-17. License – action.**

- (a) **Determination.** The Director shall review a submitted application for compliance with this article. In deciding whether to issue a license, the Director should consider potential effects of the proposed application on the public health, safety, or welfare, including any relevant history with respect to a previously-issued license.
- (b) **Approval.** If the Director finds that the applicant meets the requirements of this chapter and, after consideration of the factors described in subsection (a) of this section, determines that a license should be issued, the Director shall approve the application and shall issue a license to the applicant. The Director may attach additional reasonable conditions to the license if reasonably necessary to protect the public health, safety, or welfare.
- (c) **Denial.** If the Director finds that the applicant fails to meet the requirements of this article, the Director shall deny the application.
- (d) **Final action.** The decision to issue or deny any license under this article is final.
- (e) **Term.** Licenses are issued on an annual basis. A license issued under this section is valid starting on its date of issuance and ending on the following December 31, subject to the provisions of this article relating to transfer, suspension, and revocation. A license may be renewed annually upon payment of a renewal fee as specified in the Fee Schedule Ordinance, provided that the license holder follows the applicable requirements of this article.

**Sec. 29-18. Location.**

- (a) **Residential properties.**
  - (1) Except as otherwise provided in this section, a mobile food unit may operate on a residential property.
  - (2) On a residential property, a mobile food unit:
    - (A) May only operate between the hours of 10 a.m. and 8 p.m.; and
    - (B) May not operate on the same numerical block of a street for more than five consecutive days.

**(b) Nonresidential properties.**

- (1)** Except as otherwise provided in this section, a peddler may operate a mobile food unit on a privately-owned nonresidential property with the permission of the property owner.
  - (2)** On a nonresidential property, except as otherwise provided in this section, a mobile food unit may operate between 9 a.m. and 9 p.m. each day. A mobile food unit may remain on a particular property for all or part of that 12-hour period.
- (c) Historic district.** Except as otherwise provided in subsection (d) of this section, a mobile food unit may not operate in the Frederick Town Historic District, with the exception of Carroll Creek Linear Park.
- (d) Breweries, wineries, and distilleries.** With the permission of the property owner, on a nonresidential property, whether or not it is within the Frederick Town Historic District, a mobile food unit may operate in a parking area adjacent to, and for the use of customers of, a small scale craft brewery, winery, or distillery, as those terms are defined in the LMC. A peddler may operate a mobile food unit during the hours of operation of the associated small scale craft brewery, winery, or distillery.
- (e) MARC train station.** A mobile food unit located in a parking area adjacent to the MARC train station may operate only during the hours of scheduled transit services.

**Sec. 29-19. Operating standards.**

- (a) Display of license.** The license issued to the applicant shall be clearly and prominently displayed at the fixed location or on any movable structure used in connection with the activity licensed under this article.
- (b) Paved areas.** Mobile food units may operate only on paved areas. A mobile food unit must be of a temporary nature, not constructed with a permanent foundation and not affixed to the surface of the paved area.
- (c) Storage.** Except for the trash and recycling receptacles required by subsection (h) of this section, no merchandise, food, equipment, or other item related to the operation of the mobile food unit may be stored or kept adjacent to the mobile food unit.
- (d) Parking.** Nothing in this article allows any person to fail to comply with the minimum parking standards prescribed by the LMC. Property owners and operators of mobile food units shall ensure that mobile food units are operated in such a manner as to provide sufficient space for maneuvering onto the lot for safe access by pedestrians and emergency response vehicles.
- (e) Utilities.** Mobile food units must be entirely self-sufficient with respect to electricity, water, and other utilities, or must apply for appropriate permits to ensure compliance with all applicable regulations.
- (f) Maintenance.** Peddlers operating mobile food units shall:
  - (1)** Provide at least one trash receptacle;



- (2) Provide a recycling receptacle immediately adjacent to each trash receptacle;
  - (3) Ensure that all recycling receptacles are clearly distinguished from trash receptacles by color or signage;
  - (4) Ensure that all recyclable materials deposited into recycling receptacles are collected for recycling;
  - (5) Remove trash and litter from the area around the mobile food unit each day; and
  - (6) Maintain the cleanliness of the area around the mobile food unit during its hours of operation.
- (g) **Sales.** Mobile food units may sell only food and non-alcoholic drinks and may not sell other merchandise or services.
- (h) **Signage.** No banners or balloons may be attached to a mobile food unit.
- (i) **Seating.** Seating for use by customers of mobile food units is allowed, provided it does not create a conflict with other requirements of the site, including but not limited to parking requirements or access to the site by emergency response vehicles

**Sec. 29-20. Violations.**

- (a) **Remedies not exclusive.** In addition to the remedies set forth in this section, the City may seek any other remedies available to it at law or in equity.
- (b) **Municipal infractions.** Violation of any provision of this article is a municipal infraction punishable by a fine of \$50 for a first offense and \$100 for a second or subsequent offense within a 12-month period. Each day a violation continues is deemed a separate offense.
- (c) **Revocation of license.**
- (1) The Director may revoke a license issued under this article for one or more of the following reasons:
    - (A) The applicant has misrepresented or provided false information on a license application;
    - (B) The license has been suspended within the previous 12 months under subsection (d) of this section; or
    - (C) The operation of a mobile food unit has created or is creating a public nuisance or a hazard to public health, safety, or welfare.
  - (2) Before revoking a license, the Director shall provide written notice to the license holder setting forth the grounds for an effective date of the revocation.
  - (3) A new license will not be issued for a period of one year after revocation.

**(d) Suspension of license.**


- (1) The Director may suspend a license issued under this article for a period of up to 30 days, or a longer period if necessary to carry out the intent of this article, if the license holder is not in compliance with the license or any provision of this article.
- (2) Before suspending a license, the Director shall provide written notice to the license holder setting forth the grounds for the suspension, the effective date of the suspension, and the length of the suspension.
- (3) The Director may reinstate a license when the Director is satisfied that the grounds for the suspension have been remedied.

**SECTION II. BE IT FURTHER ENACTED AND 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.

**SECTION III. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK,** That this ordinance shall take effect on the date it is approved by the Mayor and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**PASSED:**


**DATE: June 2, 2022**

  
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Michael C. O'Connor, President,  
Board of Aldermen

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**APPROVED:**

**DATE: June 3, 2022**

  
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Michael C. O'Connor, Mayor

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**Approved for Legal Sufficiency:**

  
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City Attorney