

RECORD OF ORDINANCES

Ordinance No. 2019- 25

Passed JULY 8 20 19

AN ORDINANCE TO AMEND TITLE 8 (BUSINESS REGULATION AND TAXATION CODE) OF THE BALTIMORE CODIFIED ORDINANCES IN ORDER TO ADOPT REGULATIONS REGARDING MOBILE FOOD VENDING

WHEREAS, Title 8 (Business Regulation and Taxation Code) of the Baltimore Codified Ordinances requires amendment in order to provide for regulations regarding mobile food vending; and,

WHEREAS, Rules Committee has reviewed the proposed amendments and recommends adoption of the same;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BALTIMORE, FAIRFIELD COUNTY, OHIO, A MAJORITY OF ITS MEMBERS CONCURRING:

SECTION 1: That Title 8 "Business Regulation and Taxation Code," is hereby amended to provide for a new Chapter 814, which shall be titled "Mobile Food Vending." A copy of the proposed new Chapter 814 is attached hereto and incorporated herein in its entirety.

SECTION 2: This ordinance shall become effective at the earliest period authorized by law.



Brad Nicodemus, Mayor

DATE OF PASSAGE: JULY 8, 2019

EFFECTIVE DATE: AUGUST 8, 2019

ATTEST: 

Brian Bibler, Fiscal Officer

SPONSOR: KELLER

APPROVED AS TO FORM: 

Jeffrey Feyko, Village Solicitor

Mobile Food Vending - DRAFT

A. Application for license

1. An application packet for a mobile food vending license cannot be completed until the applicant has applied for and received a health license by the county. Proof of such license must be submitted at the time an application is filed.
2. Application for a mobile food vending license shall be made under oath and shall contain the following information and/or material:
 - (1) Name, permanent address, telephone number, electronic mail address, date of birth, and driver's license number of the mobile food vending unit owner;
 - (2) Business name or DBA, permanent address, and telephone number, if different from the owner information;
 - (3) Proof of Ohio Department of Taxation Itinerant Vendors License, if required;
 - (4) Proof of insurance, as required by this chapter, or by any city, state, or federal law, rule, or policy;
 - (5) A physical description of the unit proposed to be licensed for mobile food vending along with a photo;
 - (6) Current and valid state vehicle registration information for the unit proposed to be licensed for mobile food vending;
 - (7) Proof of a city income tax filing number or exemption from the Village of Baltimore division of income tax;
 - (8) Proof of a filing number or exemption from the Ohio Department of Taxation;
 - (9) Affirmation that, upon issuance of a license, the applicant will provide to the Village of Baltimore written documentation of any change in the information required by this chapter, as well as written documentation of any modification, damage, destruction, or decommissioning of the unit, within ten (10) calendar days of any such change; and
 - (10) Any other information required by the Village of Baltimore or the department of health.

B. Application fee

1. Each application for a mobile food vending license shall be accompanied by a non-refundable application fee in the amount of fifty dollars (\$50.00).

C. Requirements for issuing a license

1. The Village of Baltimore shall issue a mobile food vending license and corresponding placard required by this chapter to an applicant who meets all of the following requirements:
 - a. Who has received approval of an application as provided for in Section 573.03 of this chapter;
 - b. Whose mobile food vending unit has passed the Fairfield County Health Department inspections
 - c. Whose mobile food vending unit is in compliance with all applicable requirements of this chapter and has obtained any permits, licenses or prior approval required by the village, state or federal agency;
 - d. Who has not been denied a license under this chapter within the immediate past year, unless the applicant can and does show that the reasons for such earlier denial no longer exist;
 - e. Who has paid all applicable application and license fees; and
 - f. Who is not otherwise refused a license under the requirements of this chapter.

2. The Village of Baltimore shall keep a record of the identification number of every unit and the date of inspection in its office.

D. Expiration and renewal of license

1. Each license issued under this chapter shall expire on the 31st day of each December.
2. Each licensee must comply with the application and inspection requirements of this chapter to receive a new license for the succeeding licensing period starting on January 1st of each year.

E. Transfer of license prohibited

No mobile food vending license issued shall be transferred or assigned by the named licensee to any other individual or organization, or to any other mobile food vending unit. Any health license issued by Columbus Public Health be transferred or assigned by the named licensee to any other individual or organization, or to any other mobile food vending unit. Should a change in ownership of a mobile food vending unit occur at any time, the succeeding owner must comply with the application, inspection and fee requirements of this chapter, as well as any application, inspection and fee requirements for a health license.

F. Insurance required for operation

No individual or organization shall operate, or cause to be operated, any mobile food vending unit within the corporate limits of the Village of Baltimore without general liability insurance from an insurance company duly licensed to transact such business in the State of Ohio or of an insurance company not authorized to transact business in this state

Affirming, in writing, that the individual or organization will forever indemnify and hold harmless the Village of Baltimore and all of its agents, employees and representatives from and against all claims, damages, losses, suits and actions, including attorney's fees, arising or resulting from operation of a mobile food vending unit in the public right of way.

G. Mobile food vending unit size, description, requirements, and prohibited equipment

1. A food truck, food trailer, or pedi-food cart shall be twenty- five (25) feet or less in length.
2. A pushcart:
 - (1) Four (4) feet or less in width, including wheels;
 - (2) Nine (9) feet or less in length, of which not more than six (6) feet of length shall be used for the display storage, or preparation of items for sale or barter; and
 - (3) Six and one-half (6 ½) feet or less in height.
3. A mobile food vending unit utilizing a generator shall meet one of the following:
 - (4) The generator shall be wholly enclosed inside the frame of the mobile food vending unit; or
 - (5) The generator shall be external to the unit, but fully enclosed other than space necessary for ventilation, securely affixed to the unit during operation, placed in a location as prescribed or approved by the Division of Fire.
 - (6) The noise emitted from the generator when running shall not disturb or impair the peace of any neighboring properties. Two (2) or more complaints constitute a noise complaint and the issue must be addressed by the vendor in a timely manner as deemed by the Village of Baltimore.

4. For mobile food vending units, the Village Administrator or designee shall promulgate such rules regarding mobile food vending unit size, description, construction, requirements, and prohibited equipment as may be necessary to protect the public health, safety, sanitation and general welfare.

H. General operational requirements

1. The owner and/or operator of a mobile food vending unit shall abide by all of the following:
 - a. For any refuse collected from the operation of the unit, refrain from causing or allowing the disposal of such refuse in or beside any public trash container at any time, or the disposal of such refuse in or beside any private trash container without permission;
 - b. Refrain from causing or allowing the illegal disposal or release of oils or greases;
 - c. Refrain from causing or allowing to be placed in the public right of way any seating, signage, or other temporary structures.
 - d. Post, at the point of sale, the name, permanent address, telephone number, and electronic mail address of the owner of the mobile food vending unit;
 - e. Post, at the point of sale, the mobile food vending license;
 - f. Post, at the point of sale, the most recent health inspection
 - g. Post, at the point of sale, the telephone number to report complaints to the Village of Baltimore;
 - h. Comply and refrain from otherwise causing or allowing the operation of a mobile food vending unit in a manner that violates this chapter or applicable sections, rules, regulations or ordinances of the Village of Baltimore.
2. Temporary Food vendors are licensed for 5 consecutive days up to 10 times a year and they must have a permanent renewal for each occurrence.
3. Mobile Food vendors are licensed for 365 days but has to move locations every 30 days for a period of 7 consecutive days prior to returning to previous location.

I. Vending from a unit upon a street, alley or road

1. This section shall apply to mobile food vending units that go from place to place upon a street, alley or road with the intent to vend on a short-term, temporary basis at each place. Such units include, by way of example and not by way of limitation, an ice cream truck or other frozen dessert truck.
2. Such mobile food vending units shall do all of the following:
 - (1) Only stop when hailed by a potential customer;
 - (2) Only vend adjacent to a sidewalk, refraining from parking in a traffic lane to vend, or otherwise unreasonably obstructing traffic to vend;
 - (3) Only vend from such location for up to 15 minutes;
 - (4) Only operate from 8 a.m. to 8 p.m. in any zone; and
3. Only utilize a sound system to project music. Pushcarts shall not be used on any sidewalk:
 - (5) Within twenty (20) feet of an intersection with a street, road or alley;
 - (6) Within ten (10) feet of a pedestrian crosswalk or intersecting sidewalk;
 - (7) Abutting any building without permission of such building owner;
 - (8) So as to leave less than five (5) feet of space available for pedestrian traffic; or
4. Pushcarts must abide by all of the applicable restrictions provided in this section.
5. Pushcarts shall be positioned on sidewalks as near as possible to the curb.

J. Special events and public events operation, licensed mobile food vending units

1. No mobile food vending license shall be required for any mobile food vending unit that operates exclusively within special events and/or public events.
2. If a mobile food vending unit operates in the public right of way solely due to its participation in a special event or public event, such unit shall not be required to obtain a public right of way license.
3. Nothing in this section shall limit periodic inspections by the Village of Baltimore at the discretion of the inspecting authority.
4. All mobile food vending units must have approval of or license from Fairfield County Health Department

K. Operation on private property

1. No individual or organization shall operate or cause to be operated any mobile food vending unit on private property within the corporate limits of the Village of Baltimore without meeting the licensing and fee requirements of this chapter, unless otherwise exempted by this chapter.
2. Operation of a mobile food vending unit on private property must be in compliance with all applicable zoning requirements related to commercial activity on private property.

L. Suspension, revocation or permanent revocation of license

1. The Village of Baltimore may suspend or revoke the license of any mobile food vending unit and/or owner pursuant to local and state rules and regulations. "Suspend" and "revoke" shall have the same meaning as Ohio Revised Code Chapter 3717 for the purpose of this subsection.
2. The Village Administrator or their designee may suspend, revoke, or permanently revoke the license of any mobile food vending unit and/or owner who engages in any of the following conduct:
 - (1) Obtaining a license by a false statement in his or her application;
 - (2) Failing to comply with the mobile food vending unit operation and vehicle standards established in this chapter;
 - (3) Misrepresenting or otherwise making false statements in his or her affidavit that he or she would conduct criminal background checks on all employees;
 - (4) Failing to post and maintain required information;
 - (5) Verbally threatening or attempting to intimidate any employee of the Village of Baltimore for actions taken in the enforcement of the provisions of this chapter either in person or via social media;
 - (6) Failing to maintain general liability insurance for each mobile food vending unit;
 - (7) Conviction for any crime committed in or from the mobile food vending unit;
 - (8) Any other form of misconduct, which shall mean conduct apart from the generally accepted practices of mobile food vending unit owners and employees, which demonstrates personal, corporate, managerial, ethical or professional characteristics or disposition rendering a person unsuitable to own or work in a mobile food vending unit.

M. Appeals

1. Any individual or organization who has been refused a license or renewal of a license under this chapter or has had a license issued under this chapter suspended or revoked, may appeal such decision to the Village of Baltimore Council.

N. Severability clause

If any particular portion of this chapter is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to the particular portion declared invalid. This declaration of invalidity shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable.

O. Penalties

A violation of any section of this chapter shall be deemed a criminal violation as follows:

1. Whoever violates this section shall be guilty of misdemeanor of the first degree. Any such violation shall constitute a separate offense on each successive day continued. Strict liability is intended to be imposed for a violation of this section.
2. Whoever violates any of the g sections shall be guilty of a minor misdemeanor.
3. A violation of any section may be grounds for the suspension, revocation or permanent revocation of the Mobile Food Vending unit license or in the case of a new application may be grounds to refuse to issue such license for a determinate period of time up to ninety (90) days or permanently, in addition to any other penalties established for such violation in applicable sections of the Village of Baltimore Codes.

P. Definitions

- b) "Department of Health" shall have the same meaning as "licensor" for a mobile vending health license in Ohio Revised Code 3717.01(O).
- c) "Division of Fire" shall mean the Basil Joint Fire District.
- d) "Food" shall mean a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- e) "Food Service Operation" shall mean, for the purposes of a mobile food vending license, a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. "Served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.
- f) "Food trailer" shall mean any vehicle without motive power that is designed to be drawn by a motor vehicle and is specifically designed or used for food vending operations.
- g) "Food truck" shall mean a vehicle propelled by an engine which has been specifically designed or used for mobile food vending.
- h) "Food truck industry" shall mean both food trucks and food trailers.
- i) "Food vending operation" shall mean a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. "Served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.
- j) "General public right of way access permit" shall mean a document issued to a mobile food vending unit via an electronic reservation system, such that the unit may operate in the public right of way outside designated spaces or mobile food courts in congestion or commercial zones, subject to the limitations and provisions of this chapter.

- k) "Health license" shall mean an official document issued by a department of health pursuant to Section 3701 of the Ohio Revised Code. Such health license shall be separate from any other license required under this chapter. Such document may be either an annual health license or a temporary health license.
- l) "Licensing period" shall mean the sixteenth (15th) day of April to the fifteenth (15th) day of April of the next succeeding year.
- m) "Mobile food vending court" shall mean a location where the public right of way is closed for vehicular traffic on a temporary or permanent basis to allow two or more mobile food vending units to operate from such location.
- n) "Mobile Food Vending License" shall mean an official document issued by the Village of Baltimore authorizing operation of a mobile food vending unit within the corporate limits of the Village of Baltimore. Mobile food vending license does not include a health license required by Section 3717 of the Ohio Revised Code. Unless otherwise stated, "license" shall have the same meaning as "mobile food vending license."
- o) "Mobile food vending unit" shall mean a food service operation or retail food establishment that is operated from a food truck, food trailer, pedi-food cart, or pushcart, and that can or does routinely change location. For the purposes of a mobile food vending license, "mobile food vending unit" excludes food delivery operations and vending machines, as defined in Ohio Revised Code 3717.01(L).
- p) "Mobile food vendor" shall mean every corporation, association, joint stock association, person, firm or partnership, their lessees, directors, receivers, trustees, appointees by any court whatsoever, or the heirs, executors, administrators, or personal representatives or assignees of any deceased owner, owning, controlling, operating or managing any mobile food vending unit.
- q) "Operator" shall mean the individual who manages one (1) or more mobile food vending units whether as the owner, an employee of the owner or as an independent contractor.
- r) "Permanently revoke" shall, for the purposes of a mobile food vending license, mean to terminate all rights and privileges under a license for a period of ninety (90) days or greater and to render the holder of a license ineligible to reapply for said license.
- s) "Pedi-food cart" shall mean a vehicle propelled by human power which has been specifically designed or used for mobile food vending and is or may be operated on a road, street or alley.
- t) "Public event" shall, for the purposes of a mobile food vending license, mean any public activity or gathering or assemblage of people, other than a special event, that is open to the general public for admission, requires payment for entrance, attendance or participation, and requires the issuance of a health license or temporary health license pursuant to Ohio Revised Code 3717.01 for participating mobile food vendors. "Public event" includes, by way of example and not by way of limitation, a sporting event at an arena or stadium, a state fair, a concert, or a theatre production.
- u) "Public right of way" shall mean any property owned by the Village of Baltimore, including but not limited to, any street, road, alley, sidewalk, vacant lot, or other tract of land.
- v) "Pushcart" shall mean a vehicle propelled by human power which has been specifically designed or used for mobile food vending. Vehicles not specifically designed for mobile food vending including, by way of example and not by way of limitation, racks, wheelbarrows, dollies, grocery carts, baby carriages, tables, chairs, benches, cabinets, or other furniture and boxes, buckets, tubs, or other containers or devices which normally rest on the ground whether or not wheels have been attached shall not be licensed as pushcarts.
- v) "Revoke" shall, for the purposes of a mobile food vending license, mean to terminate all rights or privileges under a license for a period not to exceed ninety (90) days after which the individual must reapply for a license.
- w) "Retail food establishment" shall, for the purposes of a mobile food vending license, mean a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for sale of food to a person who is the ultimate consumer.

- x) "Rule" or "rules" shall, unless otherwise stated in this chapter, mean rules promulgated as provided for in the Village of Baltimore Codes ordinances, rules or regulations
- y) "Special event" shall, for the purposes of a mobile food vending license, mean any activity or gathering or assemblage of people upon public property or in the public right of way for which a block party, street closure, race event, parade permit, community market, or other like permit has been issued by the Village of Baltimore.
- z) "Suspend" shall, for the purposes of a mobile food vending license, mean to temporarily deprive a licensee of rights or privileges under a license for a period not to exceed ninety (90) days.
- aa) "Vending" shall mean the sale of food to a person who is the ultimate consumer. Such sales do not include those from a vending machine, as define in Ohio Revised Code 3717.01(L).