

**ORDINANCE NO. 2020-1  
MOBILE FOOD VENDORS**

INTRODUCED BY: COUNCILMAN EARL H. MURPHY, JR.

AN ORDINANCE OF THE TOWN OF HURLOCK ENACTING  
REGULATIONS FOR THE OPERATION OF "MOBILE FOOD  
VENDORS" IN THE TOWN OF HURLOCK.

WHEREAS, the Council of the Town of Hurlock (the "Council") is authorized by Maryland Code Ann., Local Government Article, § 5-201 et seq., to adopt such ordinances not contrary to the Constitution of Maryland, public general law, or public local law as the Council deems necessary to assure the good government of the municipality, to preserve peace and order, to secure persons and property from damage and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, the Council has determined that it is desirable and in the public interest to regulate mobile food vendors, commonly known as "Food Trucks," within the limits of the Town of Hurlock (the "Town"); and

WHEREAS, mobile food vendors are typically operated by small business owners whose revenue provides entrepreneurial opportunities as well as job growth; and

WHEREAS, mobile food vendors present unique public health, safety and welfare concerns; and

WHEREAS, established businesses also known as "brick-and-mortars" also contribute substantially to the overall local economy, provide their own food options, as well as opportunities for job growth; and

WHEREAS, this Ordinance seeks to allow both mobile food vendors and the established brick-and-mortars to co-exist without a negative financial impact to the other; and

WHEREAS, this Ordinance seeks to equally promote both industries for mutual economic growth in the Town and in the best interests of the citizens of the Town; and

WHEREAS, brick-and-mortars naturally engage in competition and Food Trucks will increase competition by pulling away customers, which could harm brick-and-mortars through lack of commercial activity and impact the economy of the Town; and

WHEREAS, this Ordinance seeks to protect the contributions of brick-and-mortars to the Town, promote investment in the same, as well as to encourage a diversified

marketplace, thus promoting the legitimate government interests of preventing vacant properties or businesses in Town, generating revenues through taxes for the Town, providing jobs, and promoting real estate investments within the Town.

**SECTION 1. BE IT ENACTED AND ORDAINED** by the Mayor and Council of the Town of Hurlock, Maryland, a municipal corporation of the State of Maryland, as follows:

ORDINANCE NO. 2020-1

Section 1. Definitions.

A. “Brick-and-Mortar Food Vendor” means any retail establishment that is primarily engaged in selling Food Product.

B. “Commissary” means a fixed, non-mobile establishment or any other place for the storage of supplies, the preparation of Food Product to be sold and/or served by a Mobile Food Vendor, or the cleaning and servicing of the Motor Vehicle and/or Trailer used by the Mobile Food Vendor in connection with the license of Mobile Food Vendor.

C. “Council” means the Council of the Town of Hurlock.

D. “Food Product” means any item used as food, drink, confectionary, or condiment for human consumption, whether simple or compound. “Food Product” does not include medicine, drugs, or alcohol.

E. “Ice Cream Vendor” means a vendor that earns substantially all of its revenue from the sale of ice cream or similar frozen food confections from a Motor Vehicle or Trailer.

F. “Mobile Food Vending License” or the “License” means the license to sell food from a Motor Vehicle or Trailer that has been issued in accordance with this Ordinance.

G. “Mobile Food Vendor” means any person that sells, distributes, or offers to sell or distribute food products from a Motor Vehicle or Trailer.

H. “Motor Vehicle” has the meaning stated in Maryland Annotated Code, Transportation Article, Section 11-135, as amended from time to time.

I. “Person” means an individual, a partnership, a firm, an association, corporation, limited liability company, or entity of any kind, as well as a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind. “Person” does not include a governmental entity or an instrumentality or unit of a governmental entity.

J. “Public Property” means any Public Street, mall, park, parking lot, or other real property owned by the Town.

K. “Public Street” means any street, boulevard, road, highway, alley, lane,

sidewalk, footway, or other public way or place that is owned by Town or habitually used by the public.

L. "Town" means the Town of Hurlock.

M. "Trailer" has the meaning stated in Maryland Annotated Code, Transportation Article, Section 11-169, as amended from time to time.

Section 2. Ice Cream Vendors – Exception from this Ordinance.

This Ordinance does not apply to Ice Cream Vendors.

Section 3. Limitation on Vending on Public Property.

No Mobile Food Vendor shall vend on any Public Property within the Town except for Special Events/Solicitations and only then upon the issuance of a permit properly issued by the Town Manager pursuant to Section 13-3 of Ordinance No. 2002-5.

Section 4. License Required.

A. *Issuance of License.* No Mobile Food Vendor shall vend on private land within the Town without first obtaining approval by the Council and the subsequent issuance of annual Mobile Food Vending License from the Town Manager. The License shall be for a specific location or specific area within the Town as set forth in the Mobile Food Vending License. The cost of the annual License shall be One Hundred Twenty-Five Dollars (\$125.00) per year. A Mobile Food Vendor may operate from more than one location or area within the Town but will be required to obtain a separate License for each specific location and/or specific area.

B. *Refusal to Issue/Revoke.* The Council and/or the Town Manager shall refuse to issue a Mobile Food Vendor License or shall revoke said License for any of the following reasons:

- (1) If the Mobile Food Vendor has given false or misleading information on the application.
- (2) If the Mobile Food Vendor fails to provide any information as required by this Ordinance or by the Town Manager.

Section 5. Application Procedure for Mobile Food Vending License.

A. *Form/Contents.* The applicant must submit an application for each specific location in the form the Town Manager requires that contains the following information:

- (1) The applicant's name and address;
- (2) The applicant's age;
- (3) The type of Food Product for which the Mobile Food Vendor License is sought;

- (4) The specific location or specific area for which the License is sought;
- (5) Evidence that the applicant has obtained the appropriate license from the Dorchester County, Maryland, Health Department; and
- (6) Written permission from the owner of the private property where the Mobile Food Vendor will be operating; and
- (7) Any other information the Town Manager requires.

B. *Signatures on Application.* The application must be signed by the applicant. If the application is by a sole proprietorship, it must be signed by the owner. If by a partnership, it must be signed by an authorized partner. If signed by a corporation, it must be signed by an authorized officer. If signed by a limited liability company, it must be signed by a managing member and/or authorized officer. If signed by any other entity, it must be signed by an authorized officer or person. The Town Manager shall verify the required signatures of the Applicants and of the owners of the private property where the Mobile Food Vendor will be operating.

#### Section 6. Term.

The Mobile Food Vendor License issued in accordance with this Ordinance shall be valid for up to one calendar year and shall expire on the 31<sup>st</sup> day of December of that year. Mobile Food Vendor License holders must reapply annually.

#### Section 7. Restrictions on Mobile Food Vendors.

##### A. *Distance.*

- (1) No Mobile Food Vendor shall vend within Two Hundred (200) feet of a building containing a Brick-and-Mortar Food Vendor and no Mobile Food Vendor License shall be issued for such locations.
- (2) All measurements, to determine distances for the enforcement of this Ordinance, shall be measured in the following manner:
  - (a) From the closest point of the Motor Vehicle or Trailer from which the Mobile Food Vendor is selling or offering for sale Food Product;
  - (b) In a straight line to the closest point of a building that is occupied by a Brick-and-Mortar Food Vendor.

B. *Signs.* A Mobile Food Vendor is limited to signs mounted to the exterior of the Motor Vehicle or the Trailer from which the Mobile Food Vendor is selling or offering for sale Food Product, which may be illuminated, and One (1) detached

sandwich board sign with dimensions no larger than Two (2) feet by Four (4) feet.

C. *Service Primarily to Pedestrians.* Mobile Food Vendors shall primarily serve pedestrians; a drive-thru or drive-in service for vehicular customers is prohibited. Mobile Food Vendors shall primarily serve Food Product only from the inside of the Motor Vehicle and/or Trailer from which the Food Product is sold. With that said, Mobile Food Vendors may take orders and deliver food to the public in vehicles and/or otherwise assist customers with loading.

D. *Obstruction of Vehicular and Pedestrian Traffic.* Placement of the Motor Vehicle and/or Trailer from which the Mobile Food Vendor is selling or offering for sale Food Product shall not obstruct or impede pedestrian or vehicular traffic, access to driveways, and sight distances for drivers.

E. *Unattended Motor Vehicles and/or Trailers Prohibited.* No Motor Vehicles and/or Trailers used by a Mobile Food Vendor for the sale or offering for sale of Food Product shall be parked on Public Property overnight. Additionally, after a Mobile Food Vendor is done operating on private property for the day, the Motor Vehicle and/or Trailer used by Mobile Food Vendor must be relocated to a site other than the private property on which the Mobile Food Vendor has been operating, unless that Mobile Food Vendor is also the owner of the private property on which the Mobile Food Vendor has been operating or the private property is also the Commissary for the Mobile Food Vendor.

F. *Time/Day Limitations.* A Mobile Food Vendor shall only be permitted to operate between 7:00 a.m. and 7:00 p.m.

#### Section 8. Enforcement by Citation.

A. In addition to any other civil or criminal remedy or enforcement procedure, each act of vending in violation of any of the provisions of this Ordinance shall be deemed a separate municipal infraction or offense and shall be subject to a fine not exceeding Two Hundred Fifty Dollars (\$250.00) for each offense.

B. The issuance of a citation to enforce this Ordinance does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

#### Section 9. Criminal Penalties.

A person who violates any provisions of this Ordinance is guilty of a misdemeanor and, on conviction, is subject to a penalty of Two Hundred Fifty Dollars (\$250.00) for each offense.

#### Section 10. Revocations and Suspensions.

A. *Authorized Suspension of Revocation.* The Town Manager may suspend or revoke a Mobile Food Vendor License if the licensee violates any provision of this ordinance or any other applicable ordinance of the Town, the Dorchester County Code of Public Laws, and/or the laws of the State of Maryland.

B. *Mandatory Revocation.* Upon the 3<sup>rd</sup> violation of any Mobile Food Vendor of this Ordinance within any one-year period, the Town Manager must revoke the license of the Mobile Food Vendor.

C. *Application Following Revocation.* If a Mobile Food Vending License is revoked, the former licensee and/or any person associated with the former licensee may not apply for a new license until at least One (1) year from the date of revocation.

D. *Stay of Operations.* The Town Manager's issuance of a suspension or revocation of a Mobile Food Vending License is effective immediately, and any operations previously allowed by the suspended or revoked Mobile Food Vending License must cease immediately and may not resume unless or until the Council reverses the Town Manager's decision.

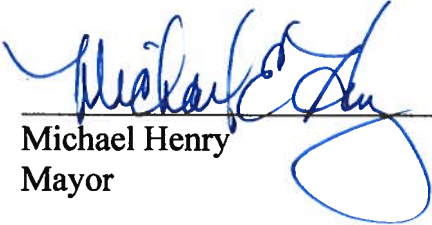
E. *Appeal of Suspension or Revocation.*

- (1) An aggrieved party may appeal to the Council:
  - (a) The suspension or revocation of a Mobile Food Vending License; or
  - (b) Any other decision of the Town Manager relating to the administration of this Ordinance.
- (2) The appeal must be taken in writing within Ten (10) days from the date of notice of the suspension, revocation or other decision of the Town Manager and submitted to the Town Manager and/or the Mayor.
- (3) The Mayor and Council shall consider the appeal as soon as practicable at a regularly scheduled Mayor and Council meeting.
- (4) The Council may affirm, modify, or reverse the action of the Town Manager.


**SECTION 2. BE IT FURTHER ENACTED AND ORDAINED** by the Mayor and Council of the Town of Hurlock, Maryland, that this Ordinance shall become effective at the expiration of Twenty (20) calendar days following approval by the Mayor.

	Yea/Nay
Charles T. Cephas, Sr.	<u>Yea</u>
Charles A. Cummings	_____
Bonnie Franz	_____
Earl H. Murphy, Jr.	<u>Yea</u>
Amber Truxon	<u>Yea</u>

In accordance with Article III, Section 309.a of the Hurlock Town Charter, I hereby approve the above ordinance this 9<sup>th</sup> day of March, 2020.

  
\_\_\_\_\_  
Michael Henry  
Mayor

ATTEST:

  
\_\_\_\_\_  
John Avery  
Town Manager

Approved as to Form:

  
\_\_\_\_\_  
Robert J. Merriken, Town Attorney

Date Introduced: February 24, 2020  
Date Passed: March 9, 2020  
Effective Date: March 29, 2020