

## CHAPTER 1037: MOBILE FOOD VENDING

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### § 1037.01 DEFINITIONS.

For purposes of this Chapter, the following words shall have the meanings respectively ascribed to them, unless a different meaning is clearly indicated by the context.

(a) **DESIGNATED ZONE.** Any area established as a "Designated Outdoor Refreshment Area aka DORA" by Middletown City Council and additional areas designated by the City Manager, which shall be maintained on file in the Economic Development Department.

(b) **LOCAL MOBILE FOOD VENDING PERMIT (LMFVP).** A revocable license issued by the City of Middletown to permit the sale of food or beverages from a Mobile Food Vending Unit within the City of Middletown in Designated Zones.

(c) **MOBILE FOOD VENDOR.** Any person who sells or offers for sale food or beverages from a Mobile Food Vending Unit in any public, private or restricted space.

(d) **MOBILE FOOD VENDING UNIT.** A commercially manufactured, motorized or otherwise mobile unit, truck or cart that is readily movable, and from which non-alcoholic beverages and/or ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution. This definition is intended to include "break-down units".

(Ord. O2016-25, passed 8-2-2016)

### § 1037.02 SALE OF FOOD OR BEVERAGES FROM A MOBILE VENDING UNIT.

No person or entity shall sell food or beverages from a Mobile Food Vending Unit in a Designated Zone in the City of Middletown without first obtaining a Local Mobile Food Vending Permit (hereinafter LMFVP). Any persons operating a Mobile Food Vending Unit in conjunction with and pursuant to a special events permit issued by the City shall not be required to obtain a LMFVP.

(Ord. O2016-25, passed 8-2-2016)

### § 1037.03 MOBILE VENDING SITE LOCATIONS.

The City Manager or their designee may, at their sole discretion, designate sites within Designated Zones for mobile food vending and shall identify approved sites on maps and/or by approximate address. Additional sites may be requested in writing by persons interested in vending at specific locations which have not been previously designated for vending of the type proposed in the request. The City Manager or their designee shall exercise sole discretion in determining the appropriateness of the requested location and shall notify the applicant in writing of his decision.

(Ord. O2016-25, passed 8-2-2016)

### § 1037.04 MOBILE FOOD VENDING ON PRIVATE PROPERTY.

Mobile Food Vending on private property shall be conducted as follows:

- (a) No person shall sell food or beverage from a Mobile Food Vending Unit in a residential zoned district.
- (b) The sale of food or beverage from a Mobile Food Vending Unit may be conducted without a LMFVP on private property as follows:
  - (1) On the private property of an existing operating business with the permission of the owner of the private property; or
  - (2) On private property, with no existing operating business, in a zoning district where outdoor dining is a permitted use, with the permission of the owner of the private property and a proper zoning permit.

(c) The sale of food or beverage from a Mobile Food Vending Unit on private property shall not interfere with traffic or pose a hazard to public safety. If the City determines, in its discretion, that the operation of a Mobile Food Vending Unit on private property is creating a traffic or public safety hazard, the City may refer the vendor to conduct its operation in such a manner to eliminate such hazard or to cease operations.

(d) All Mobile Food Vending Units shall have a valid food service license issued by the Board of Health.

(Ord. O2016-25, passed 8-2-2016)

#### **§ 1037.05 MOBILE FOOD VENDING; APPLICATION.**

(a) Persons desiring to obtain a LMFVP for the operation of a mobile food vending unit in the designated zones shall submit an application on a form to be provided by the City Manager or their designee which shall:

(1) Identify whether the applicant seeks a license for seven days, three months, six months, or twelve months;

(2) Identify the name, mailing address, telephone number, and tax ID number of the applicant;

(3) Identify the name and address of the person authorized to receive notices from the City;

(4) Identify a primary and secondary contact individual who can be contacted in an emergency;

(5) Include proof of liability insurance in an amount not less than one million dollars (\$1,000,000.00) and naming the city as an additional insured; and

(6) Include a copy of the applicant's current food service license issued by the board of health.

(7) Include a photograph of the signage for the mobile food vending unit to be reviewed for compliance with signage requirements.

(b) A business owner must apply for and receive a separate LMFVP pursuant to this section for each mobile food vending unit to be operated in the city.

(Ord. O2016-25, passed 8-2-2016; Am. Ord. O2019-68, passed 11-5-2019)

#### **§ 1037.06 MOBILE FOOD VENDING; FEES, TERM, TRANSFERABILITY.**

(a) A mobile food vendor may apply for a LMFVP that is valid for seven days, three months, six months, or 12 months.

(1) For a twelve-month LMFVP, the fee shall be five hundred dollars (\$500.00). Payment is required prior to issuance of the LMFVP. The LMFVP shall be valid for a one-year period beginning on the date of issuance.

(2) For a six month LMFVP, the fee shall be three hundred dollars (\$300.00). Payment is required prior to issuance of the LMFVP. The LMFVP shall be valid for a six-month period beginning on the date of issuance.

(3) For a three-month LMFVP, the fee shall be two hundred dollars (\$200.00). Payment is required prior to issuance of the LMFVP. The LMFVP shall be valid for a three-month period beginning on the date of issuance.

(4) For a seven day LMFVP, the fee shall be fifty dollars (\$50.00). Payment is required prior to issuance of the LMFVP. The LMFVP shall be valid for a seven day period beginning on the date of issuance.

(b) LMFVP for mobile food vendors are non-transferrable and are revocable as provided in this chapter.

(c) Issuance of a LMFVP for a mobile food vendor pursuant to this chapter does not create or confer a property interest of any kind.

(d) The City may issue no more than 50 LMFVP at any time.

(Ord. O2016-25, passed 8-2-2016)

#### **§ 1037.07 MOBILE FOOD VENDING; OPERATING RESTRICTIONS.**

The City Manager or their designee is authorized to grant a LMFVP for the placement of mobile food vendors subject to the following restrictions:

(a) Mobile food vendors must be actively engaged in vending operations at all times while occupying any space in the designated zones.

(b) Mobile food vendors may operate in the designated zones during the following hours:

Sunday -Wednesday 6:00 a.m. to 8:00 p.m.

Thursday- Saturday 6:00 a.m. to 12:00 a.m.

(c) Mobile food vendors shall not occupy any space in the designated zones outside the hours of operation listed above.

(d) Spaces within the designated zones will be available on a first-come, first-served basis each day. Issuance of a LMFVP under this section does not guarantee access to a particular designated zone, nor does it guarantee that space will

be available.

(e) The designated zones are available only to mobile food vendors who have a valid LMFVP issued pursuant to this section.

(f) Mobile food vendors shall keep the area within a five foot radius of their unit clear of all litter and debris arising from their operations.

(g) Mobile food vendors shall be responsible for removing all waste generated by the internal operations of their unit. Such waste shall not be placed in city trash receptacles.

(h) Mobile food vendors may not operate in any manner that blocks, obstructs, or restricts the free passage of vehicles or pedestrians in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.

(i) Mobile food vending units shall not exceed thirty-one feet (31') in length or eight feet, five inches (8'5") in width.

(j) LMFVP and food service licenses must be kept on the mobile food vending unit at all times and must be available for immediate inspection.

(k) Mobile food vendors shall not park in a way that prevents other trucks from parking in otherwise available spaces.

(l) Mobile food vendors shall place a tarp or other impermeable material under their unit when parked in order to protect the sidewalk or pavement from damage or staining.

(m) Mobile food vendors may set up tables and chairs in the space immediately in front of their units, provided that the tables and chairs do not impede other trucks from parking in otherwise available spaces, and further provided that the tables and chairs are placed:

(1) Only on paved surfaces;

(2) In a location that does not block the entrance or exit of any building;

(3) In a location that does not block access to buses at bus stops, fire escapes, sidewalk access doors, traffic or street lighting equipment, utility valve boxes or other utility equipment;

(4) In a location that is not less than five feet from any alley, pedestrian crosswalk, driveway, curb cut, curb ramp or fire hydrant, and not less than four feet from any bicycle rack; and

(5) So that an open area of not less than four feet is available for pedestrian traffic around the tables and chairs.

(n) Mobile food vendors may display signage provided it complies with the following:

(1) Signage must consist only of the mobile food vendor name and logo and any items sold or available from the mobile food vendor. All other signage is prohibited.

(2) Signage must have a professional appearance and be constructed with appropriate materials.

(3) The name and logo must be permanently affixed to the mobile food vending unit.

(o) Mobile food vendors shall not have access to locations within the designated zones during special events designated by the city pursuant to a special event permit.

(p) In the case of mobile food vending units that are pulled or hauled by separate vehicles, the mobile food vending unit shall be detached from the vehicle by which it was hauled (the "hauling vehicle"). The hauling vehicle shall be parked in a regular, lawful parking space and shall not occupy space in any designated zone.

(q) Mobile food vendors shall not utilize the city's electrical outlets, unless specifically authorized by the city.

(r) Mobile food vendors shall not locate their mobile food vending units any closer than fifty feet (50') from a structure which includes a food service vendor within a designated zone unless given express permission by all of the individual food service vendors they are within fifty feet of.

(Ord. O2016-25, passed 8-2-2016; Am. Ord. O2019-68, passed 11-5-2019)

#### **§ 1037.08 MOBILE FOOD VENDING; FINANCIAL STANDING.**

(a) No mobile food vendor will be granted a LMFVP unless it is in good standing with the City of Middletown. Vendors must abide by all applicable ordinances and regulations of the City of Middletown, including local tax requirements. A LMFVP may be revoked if the individual or business is not fully compliant with any City ordinance or regulation, or fails to make timely payments required thereunder. All revocations shall be done in writing and provided to the vendor. Revocations shall be reviewed and approved by the City Manager.

(b) Following the issuance of a LMFVP, the vendor's name, contact information and federal taxpayer identification number will be forwarded to the City's Income Tax Division. Vendors may contact the Income Tax Division for additional information.

(Ord. O2016-25, passed 8-2-2016)

## **§ 1037.09 MOBILE FOOD VENDING; PENALTIES.**

Whoever operates a Mobile Food Vending Unit in a Designated Zone without first obtaining a LMFVP or special events permit violates or hereby violates any provision of § 1037.02 commits a misdemeanor of the second degree. Whoever operates a Mobile Food Vending Unit in violation of any of the operating restrictions of § 1037.07 commits a misdemeanor of the fourth degree and is subject to a civil fine not to exceed two hundred fifty dollars (\$250.00). Whoever violates any of the provisions of § 1037.04 while operating on private property commits a misdemeanor of the fourth degree and is subject to a civil fine not to exceed two hundred fifty dollars (\$250.00).

(Ord. O2016-25, passed 8-2-2016)