Bill No.

26-04

Concerning: Vendors - Amendments

Revised: 12-9-04

Draft No. 2

Introduced:

July 20. 2004 December 14, 2004

Enacted: Executive:

December 21, 2004

Effective:

March 22, 2005

Sunset Date: None

Ch. 31, Laws of Mont. Co. 2004

## **COUNTY COUNCIL** FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Denis and Leventhal

## AN ACT to:

- (1) expressly allow certain vendors to use pushcarts or other slow-moving vehicles in certain Central Business Districts under certain conditions;
- **(2)** limit the reasons for which the Department of Permitting Services can summarily suspend or revoke a vendors' license, and clarify the Department's authority to refuse to issue or renew a license; and
- generally clarify and amend the laws and procedures governing vendors. **(2)**

## By amending

Montgomery County Code Chapter 47, Vendors Sections 47-1, 47-2, and 47-6

## **Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1	Sec. 1. Sections 47-1, 47-2, and 47-0 are amended as follows:			
2	47-1.	Definitions.		
3	In this Chapter, the following words have the meanings indicated:			
4		* * *		
5	(b)	(1) Vendor means any person who sells, offers to sell, or solicits		
6		orders for any goods (including perishable foods) or services:		
7		(A) on any public street, sidewalk, or other public property or		
8		right-of-way;		
9		(B) door-to-door in a vehicle or on foot; [[or]]		
10		(C) from a vehicle, or temporary stand or structure, that is		
11		parked or otherwise temporarily located [on private		
12		property] while goods are sold or services dispensed; or		
13		(D) from a pushcart or other slow-moving vehicle.		
14		* * *		
15	47-2.	Hours and places of operation		
16	(a)	Unless otherwise permitted by law, a person must not sell or offer to sell		
17		any goods or services on any public sidewalk or the right-of-way of any		
18		public road.		
19	<u>(b)</u>	The Director may issue licenses for a limited number of stationary or		
20		slow-moving pushcarts or similar vehicles, not larger than a size set by		
21	regulation, from which a licensee may sell goods on designated			
22	sidewalks or rights-of-way in a Central Business District planning			
23		policy area (as defined in the County Growth Policy). The Director by		
24	regulation under method (2) must limit the number of vehicles licensed			
25		in each Central Business District and the number of licensees who can		
26		sell any particular type of goods. If more persons apply for any		

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category of licenses under this subsection than the number available. the

28		Director must first consider renewing each previous licensee and then
29		conduct a lottery among qualified applicants for the remaining licenses.
30		A licensee under this subsection may locate on a public right-of-way
31		only if the Director of Public Works and Transportation concurs that the
32		licensee's operation at that location will not unduly affect vehicular or
33	•	nedestrian safety.
34	<u>(c)</u>	A vendor who is a certified producer under standards set by regulation
35		under method (2) may sell fresh produce on the right-of-way of any
36		public road in locations and at times of the day that will not affect
37		public safety. In this Section, "fresh produce" means:
38		(1) regionally grown fresh fruit, vegetables, herbs, cut flowers, small
39		trees, and plants; and
40		(2) non-potentially hazardous prepackaged goods and eggs approved
41		by the Department of Health and Human Services.
42	[[(b)]	(d) Except for a prearranged appointment or with the Director's
43	·	approval, a vendor must not conduct business before 9 a.m. nor after
44		sunset. In this Section, "sunset" means the time established by the U.S.
45		Naval Observatory for Washington D.C. and vicinity.
46	[[(c)]	(e) Unless permitted by the Director and the school principal for a
47		special event, a vendor must not sell or offer to sell any item on a public
48		road or right-of-way within 500 feet of any public or private elementary
49		or secondary school.
50	47-6.	License non-issuance. revocation, or suspension.
51	<u>(a)</u>	The Director may revoke or suspend or refuse to issue or renew a
52		license [[issued under this Chapter]] for any violation of this Chapter or
53		any other applicable law or regulation. Before taking any action under
54		this subsection, the Director must:

55	notive the licensee in writing as required by subsection (c): and				
56	(2) give the licensee a reasonable opportunity to respond.				
57	[(a)] (b) The Director may summarily revoke or suspend a license after finding				
58	that the licensee:				
59	(1) has knowingly misstated or omitted a material fact from the				
60	submitted application;				
61	(2) has had a business or occupational license or permit revoked or				
62	suspended;				
63	(3) is not of good moral character, as evidenced by a conviction of a				
64	crime involving violence, sex offense, theft, fraud, or controlled				
65	dangerous substances, unless the person's conduct since the				
66	conviction shows that the public safety is unlikely to be				
67	jeopardized;				
68	[(4) has violated a condition of the license, this Chapter, or any other				
69	law related to the vending operation;] or				
70	[(5)] (4) has refused to leave any premises when <u>lawfully</u> directed by an				
71	owner, occupant, or [an] authorized government official to do so.				
72	[(b)] (c) [[***]] The Director must provide written notice to the applicant or				
73	licensee of any action taken or proposed to be taken under subsection				
74	(a) or (b). The notice must:				
75	(1) state the:				
76	(A)reasons for the action [[taken]]; and				
77	(B)recipient's right to appeal to the Board of Appeals; and				
78	(2) be delivered:				
79	(A)personally to the applicant or licensee; or				
80	(B)sent by certified mail to the local address in the license				
81	application.				

82	[(c)] <u>(d)</u> * * *	
83	[(d)] <u>(e)</u> * * *	
84	Approved:	
85		
86	Tund New	12-17-04
	Thomas A Perez, President, County Council	Date
87	Approved:	
88		
89	Som	18/2/04
	Douglas M. Duncan, County Executive	Date
90	This is a correct copy of Council action.	
91		
92	Mary A. Edan.	12/32/04
	Mary A. Edgar, MC, Clerk of the Council	Date