

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2015 Legislative Session

Bill No. CB-51-2015

Chapter No. 38

Proposed and Presented by Council Members Glaros, Lehman, and Toles

Introduced by Council Members Glaros, Lehman, Toles, Davis and Taveras

Co-Sponsors _____

Date of Introduction July 21, 2015

BILL

1 AN ACT concerning

2 Special Food Service Facilities - Mobile Units License

3 For the purpose of establishing a business license for Special Food Service Facilities – Mobile
4 Units

5 BY repealing and reenacting with amendments:

6 SUBTITLE 2. ADMINISTRATION.

7 Section 2-117

8 The Prince George's County Code

9 (2011 Edition; 2014 Supplement).

10 BY repealing and reenacting with amendments:

11 SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.

12 Section 13-246

13 The Prince George's County Code

14 (2011 Edition; 2014 Supplement).

15 BY adding:

16 SUBTITLE 5. BUSINESSES AND LICENSES.

17 Sections 5-2801, 5-2802, 5-2803, 5-2804, 5-2805, 5-

18 2806, 5-2807, 5-2808, 5-2809 and 5-2810

19 The Prince George's County Code

20 (2011 Edition; 2014 Supplement).

21 BY repealing and reenacting with amendments:

SUBTITLE 26. VEHICLES AND TRAFFIC.

Section 26-163.02
The Prince George's County Code
(2011 Edition; 2014 Supplement).

BY adding:

SUBTITLE 28. CIVIL MONETARY FINES OR PENALTIES.

Section 28-266
The Prince George's County Code
(2011 Edition; 2014 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 2-117 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

**SUBTITLE 2. ADMINISTRATION.
DIVISION 4. BOARD OF APPEALS.**

Sec. 2-117. Board of Administrative Appeals.

* * * * *
(b) County law which specifically grants the Board authority to hear appeals includes (but need not be limited to) the following:

SUBTITLE 3. ANIMALS.
Division 2. Licenses and Standards (Animal Holding Facility Licenses).

SUBTITLE 4. BUILDING.
Division 1. Building Code.
Division 2. Construction or Changes in Floodplain Area.
Division 3. Grading, Drainage and Erosion Control.
Division 4. Stormwater Management.

SUBTITLE 5. BUSINESSES AND LICENSES.
Division 2. Benefit Performances.
Division 5. Fortunetelling and Other Similar Practices.
Division 9A. Massage Establishments.
Division 12. Peddlers and Itinerant Vendors.
Division 14. Public Dances. (Dance Halls)
Division 15. Door-To-Door Solicitors.

1 Division 19. Secondhand Dealers.

2 Division 21. Towing Regulations.

3 Division 23. Model Studios.

4 Division 28. Special Food Service Facilities – Mobile Units.

5 * * * * *

6 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,
7 Maryland, that Sections 5-2801, 5-2802, 5-2803, 5-2804, 5-2805, 5-2806, 5-2807, 5-2808, 5-
8 2809 and 5-2810 of the Prince George's County Code be and the same are hereby added:

9 **SUBTITLE 5. BUSINESSES AND LICENSES.**

10 **DIVISION 28. SPECIAL FOOD SERVICE FACILITIES - MOBILE UNITS.**

11 **Sec. 5-2801. Legislative Purpose and Intent.**

12 (a) The purpose and intent of this legislation is to provide a regulatory framework for the
13 licensing of a Special Food Service Facility – Mobile Unit that operates at Food Truck Hubs as
14 defined under to Section 5-189.01(a) or Section 12-115. Each licensee, as a condition of
15 receiving a license, shall only sell their food within their designated Food Truck Hub as defined
16 by Section 5-189.01 or at a special event, fair, or festival. The provisions of this law are in
17 response to the need to encourage economic development, increase public access to healthy food
18 options, minimize or eliminate food deserts in underserved areas of the County, and promote
19 innovative entrepreneurship and revitalization in furtherance of the public safety, health and
20 welfare of the citizens and residents of Prince George’s County.

21 **Sec. 5-2802. Definitions.**

22 (a) **Special Food Service Facility – Mobile Unit** means “A licensed, motorized vehicle or
23 mobile food unit which temporarily operates at a food truck hub or one-time event under 12-115
24 (e) where food items are sold to the general public, thereby regulated by the Code of Maryland
25 Regulations (COMAR 10.15.03) as they may be amended from time to time and adopted by
26 reference in Section 12-102 as the County regulations governing food service facilities”.

27 **Sec. 5-2803. License required; fee.**

28 (a) No person shall operate a special food service facility – mobile unit without first
29 having obtained a special food service facility – mobile unit license from the Department of
30 Permitting, Inspections, and Enforcement.

31 (b) Each special food service facility – mobile unit license shall be prominently displayed
32 in a conspicuous area of the special food service facility – mobile unit.

1 (c) Each special food service facility – mobile unit license shall expire one year from the
 2 date of issuance unless renewed.

3 (d) The fee for each special food service facility – mobile unit license is Three Hundred
 4 Dollars (\$300.00).

5 (e) The Department of Permitting, Inspections, and Enforcement shall make available a
 6 thirty (30) day special food service facility – mobile unit license at a fee of \$100 for an applicant
 7 who will only operate at a temporary special event, fair, or festival for a limited time.

8 **Sec. 5-2804. License application.**

9 (a) All applicants for a special food service facility – mobile unit license shall file an
 10 application for such license on forms provided by the Department of Permitting, Inspections, and
 11 Enforcement. All principal owners shall be named in the application form.

12 (b) The completed application shall contain, but is not limited to, the following
 13 information and shall be accompanied by the following documents:

14 (1) If the applicant is:

15 (A) An individual, the individual shall state his or her legal name and any
 16 aliases, shall submit their mailing address and residential address, telephone number;

17 (B) A partnership, the partnership shall state its complete name, the
 18 names of all partners, the mailing address and residential address of all partners, whether the
 19 partnership is general or limited, and a copy of the partnership agreement, if any;

20 (C) A corporation, the corporation shall state its complete name, its
 21 mailing address and residential address, information regarding the resident agent, the date of its
 22 incorporation, evidence that the corporation is in good standing under the statutes of the State, or
 23 in the case of a foreign corporation, evidence that it is currently authorized to do business in the
 24 State, the names and capacity of all officers, directors and principal owners, and the name of the
 25 registered corporate agent and the address of the registered office for service of process;

26 (D) A limited liability company shall state its complete name, its mailing
 27 address and residential address, the names of all managers and members.

28 (2) All applicants shall provide a copy of their Federal Employer Identification
 29 Number and evidence of Combined Central Registration with the Maryland Comptroller's
 30 Office. At the time of special food service facility – mobile unit license renewal, applicants shall
 31 submit proof that all applicable operating taxes have been paid for the prior tax year.

1 (3) Whether the applicant or any individual listed under subsection (a) of this Section
2 has worked under, or currently works under, a special food service facility – mobile unit license
3 under any ordinance from this State, another state, municipality or county which has been
4 denied, suspended or revoked, including the name and location of the business for which the
5 special food service facility – mobile unit license was denied, suspended or revoked, as well as
6 the date of the denial, suspension or revocation.

7 (4) The location of the food truck hub(s) where the special food service facility –
8 mobile unit license holder intends to operate including the street address and telephone
9 number(s), if known.

10 (5) A description of the type of food offered for sale.

11 (6) Description of the vehicle, including a color photograph of the vehicle.

12 (7) A copy of the vehicle registration.

13 (8) A photocopy of the driver’s license or other government issued identification card
14 for the individuals listed in subsection (a) of this Section.

15 (9) The applicant shall provide any and all additional information requested by the
16 Department of Permitting, Inspections, and Enforcement.

17 (c) If the applicant is an individual, he/she must sign the application for a special food
18 service facility – mobile unit license. If the applicant is a corporation it must be signed by the
19 president or vice president and attested to by the secretary or assistant secretary. If the applicant
20 is a general or limited partnership it must be signed by a general partner. If the applicant is a
21 limited liability company it must be signed by the manager.

22 (d) If an omission or error is discovered by the Department of Permitting, Inspections, and
23 Enforcement, the application will be returned to the applicant for completion or correction
24 without further action by the Departmental of Permitting, Inspections, and Enforcement. Any
25 application rejected due to an omission or error shall be accepted only when the omission or
26 error has been remedied. For purposes of this Division, the date that the Department of
27 Permitting, Inspections, and Enforcement accepts an application which is complete shall be the
28 date the application is accepted by the Department of Permitting, Inspections, and Enforcement.

29 (e) In the event that the Department of Permitting, Inspections, and Enforcement
30 determines that an applicant has improperly completed the application, it shall promptly notify
31 the applicant and allow the applicant thirty (30) days to properly complete the application. The

1 time period for granting or denying a special food service facility – mobile unit license shall be
 2 stayed during the period in which the applicant is allowed an opportunity to properly complete
 3 the application.

4 (f) Applicants for a special food service facility – mobile unit license under this Division
 5 and license holders shall have a continuing duty to promptly supplement application information
 6 required by this Section in the event that said information changes in any way from what is
 7 stated on the application. The failure to comply with said continuing duty within thirty (30) days
 8 from the date of such change, by supplementing the application of file with the Department of
 9 Permitting, Inspections, and Enforcement, shall be grounds for the suspension or revocation of a
 10 special food service facility – mobile unit license.

11 **Sec. 5-2805. Standard Dimensions.**

12 (a) Maximum dimensions of a special food service facility – mobile unit shall be 25 feet
 13 long, 11 feet tall, and 8 feet wide in a food truck hub.

14 (b) Department of Permitting, Inspections, and Enforcement and Health Department may
 15 further regulate food truck appearance and quality through regulations.

16 **Sec. 5-2806. Insurance Requirement.**

17 (a) Each licensee shall file with Department of Permitting, Inspections, and Enforcement a
 18 copy of his/her insurance policy covering the special food service facility – mobile unit.

19 (b) Department of Permitting, Inspections, and Enforcement may specify through
 20 regulations what policies and levels of coverage are necessary.

21 **Sec. 5-2807. Safety and Sanitation**

22 (a) The Fire Department shall be responsible for:

23 (1) Reviewing and issuing a proof of review for the use of open flame and propane
 24 gas in mobile vending operations and special food services facilities – mobile units as defined by
 25 Section 5-2802 of the County Code, excluding ice cream trucks and those selling prepackaged
 26 food;

27 (2) Conducting fire-safety related inspections of mobile vending businesses and
 28 special food services facilities – mobile units as defined by Section 5-2802 of the County Code;

29 (3) Enforcing County laws and regulations pertaining to any operational permits
 30 required under Subtitle 11 of the County Code.

31 (b) All mobile vendors and special food services facilities – mobile units as defined by

1 Section 5-2802 of the County Code are required to have a Certified Food Manager
 2 Certificate pursuant to Section 12-114. The certificate holder shall be present at all
 3 times of operation. Vendors at mobile farmer's markets selling unprepared foods such
 4 as whole and uncut fruits and vegetables are not covered by this section.

- 5 (c) All mobile vendors and special food services facilities – mobile units as defined by
 6 Section 5-2802 of the County Code are required to pass an inspection by the Health
 7 Department pursuant to Section 12-112.

8 **Sec. 5-2808. Approval/Denial of License.**

9 (a) The special food service facility – mobile unit license application of any applicant shall
 10 be approved or denied by the Department of Permitting, Inspections, and Enforcement within
 11 thirty (30) business days of the date the application is filed with the Department of Permitting,
 12 Inspections, and Enforcement. The Department of Permitting, Inspections, and Enforcement
 13 shall deny a special food service facility – mobile unit license if:

14 (1) The applicant has made a false statement upon the application or has given false
 15 information in connection with an application; or

16 (2) The applicant has not provided all documentation certification required by the
 17 Department of Permitting, Inspections, and Enforcement.

18 (3) The applicant or a director, officer, partner or principal of the applicant has had a
 19 special food service facility – mobile unit license revoked or suspended anywhere within the
 20 state within one year prior of the application, convicted for vending without a special food
 21 service facility – mobile unit license, or convicted for a criminal offense committed while
 22 vending with a special food service facility – mobile unit license; or

23 (4) A corporate applicant is not in good standing or authorized to do business in the
 24 State; or

25 (5) The applicant is overdue in the payment of County taxes, fees, fines or penalties
 26 assessed against him/her or imposed against him/her in relation to a special food service facility
 27 – mobile unit.

28 (b) In the event that the Department of Permitting, Inspections, and Enforcement
 29 denies a special food service facility – mobile unit license application, the Department of
 30 Permitting, Inspections, and Enforcement shall, in writing, state the reasons for the denial, and a
 31 copy of such decision shall be sent to the applicant by first class mail to the address provided by

1 the applicant.

2 **Sec. 5-2809. Suspension or revocation of license.**

3 (a) The Department of Permitting, Inspections, and Enforcement may suspend a special
 4 food service facility – mobile unit license for a period not to exceed six (6) months or revoke any
 5 license granted pursuant to this Division upon a finding of any of the following facts:

6 (1) The licensee, manager or employee if they constitute a nuisance because of noise,
 7 physical activity, public safety, or for other good cause.

8 (2) If the licensee or manager made a false statement or gave false information in
 9 connection with an application for a special food service facility – mobile unit license or a
 10 renewal of a special food service facility – mobile unit license, the special food service facility –
 11 mobile unit license shall be revoked;

12 (3) The licensee, in the case of a corporation, is not in good standing or
 13 authorized to do business in the State;

14 (4) The licensee or an employee knowingly operated any aspect of the special food
 15 service facility – mobile unit during a period of time when the special food service facility –
 16 mobile unit license was suspended;

17 (5) The licensee is delinquent in the payment of County taxes, fees, fines or
 18 penalties assessed against him/her or imposed against him/her in relation to a special food
 19 service facility – mobile unit;

20 (6) The licensed special food service facility – mobile unit fails the inspection by the
 21 Health Department pursuant to Section 12-112.

22 (b) Nothing in this Division shall prohibit the County from taking any other enforcement
 23 action provided by the County Code, County Zoning Ordinance, and the laws of the State or of
 24 the United States.

25 (c) When the Department of Permitting, Inspections, and Enforcement revokes a special
 26 food service facility – mobile unit license, the revocation shall continue for one year, and the
 27 licensee shall not be issued a special food service facility – mobile unit license for one year from
 28 the date the revocation became effective.

29 (d) If a licensee has had their special food service facility – mobile unit license revoked
 30 twice, they shall be ineligible to reapply for a new license.

31 **Sec. 5-2810. Appeals.**

1 (a) An applicant may appeal to the Board of Administrative Appeals from a final decision
2 of the Department of Permitting, Inspections, and Enforcement for a special food service facility
3 – mobile unit license pursuant to Section 2-117(b) of the County Code.

4 (b) Any party aggrieved by a decision of the Director with respect to the denial,
5 suspension, revocation, or refusal to renew a special food service facility – mobile unit license
6 shall have the right to appeal any such decision to the Board of Administrative Appeals for
7 Prince George's County, Maryland, within ten (10) calendar days after receipt of a denial,
8 suspension, revocation or refusal to renew decision rendered by the Director. Appeals to the
9 Board of Administrative Appeals from denial, suspension, revocation, or refusal to renew
10 decision of the Director shall be on the record of the hearing before the Director.

11 (c) Any party aggrieved by a final decision by the Board of Administrative Appeals, shall
12 be entitled to file an appeal within thirty (30) days to the Circuit Court for Prince George's
13 County, Maryland. Such appeals shall be governed by the provisions of the Maryland Rules
14 pertaining to administrative appeals.

15 SECTION 3. BE IT ENACTED by the County Council of Prince George's County,
16 Maryland, that Section 13-246 of the Prince George's County Code be and the same is hereby
17 repealed and reenacted with the following amendments:

18
19 **SUBTITLE 13. HOUSING AND PROPERTY STANDARDS.**

20 **DIVISION 7. PROPERTY STANDARDS AND MAINTENANCE.**

21 **Sec. 13-246. Enforcement and penalty.**

22 * * * * *

23 (h) The Revenue Authority shall be authorized to issue a civil citation pursuant to Section
24 28-266.

25 SECTION 4. BE IT ENACTED by the County Council of Prince George's County,
26 Maryland, that Section 26-163.02 of the Prince George's County Code be and the same is hereby
27 repealed and reenacted with the following amendments:

28 **SUBTITLE 26. VEHICLES AND TRAFFIC.**

29 **DIVISION 15. PENALTIES**

30 **Sec. 26-163.02. Outstanding traffic and parking violation notices; impoundment.**

31 * * * * *

1 (b) Any motor vehicle or mobile food unit employed in mobile vending parked at any time
 2 upon any public street in Prince George's County in the right of way or on private property
 3 against which there are one or more traffic and/or parking violation citations or against which
 4 there have been issued two or more warrants, may, by, or under the direction of the County
 5 Police Department either by towing or otherwise, be removed or conveyed to and impounded in
 6 any place designated by the Chief of Police or the Revenue Authority, or immobilized in such
 7 manner as to prevent its operation, except that no such vehicle shall be immobilized by any
 8 means other than by the use of a device or other mechanism which will cause no damage to such
 9 vehicle unless it is moved while such device or mechanism is in place. The first date of
 10 impoundment within three hundred sixty five (365) days of the first citation shall result in a fine
 11 or fees not to exceed two thousand five hundred dollars (\$2,500.00) to obtain the vehicle. The
 12 second act of impoundment and subsequent acts of impoundment within three hundred sixty five
 13 (365) days of the first act of impoundment shall result in a fine or fees not to exceed five
 14 thousand dollars (\$5,000.00), notwithstanding subsection (c) and (d).

15
 16 [(b)](c) The impoundment or immobilization of a vehicle shall be done pursuant to
 17 Division 18 of this Subtitle. In any case involving immobilization of a vehicle pursuant to this
 18 Subsection, such member or officer shall cause to be placed on such vehicle, in a conspicuous
 19 manner, notice sufficient to warn any individual to the effect that such vehicle has been
 20 immobilized and that any attempt to move such vehicle might result in damage to such vehicle.

21 [(c)](d) The owner of such impounded or immobilized motor vehicle, or other duly
 22 authorized person, shall be permitted to repossess or to secure the release of the vehicle upon
 23 presentation of a "Certificate of No Probable Cause" or upon satisfaction of all outstanding
 24 traffic and/or parking violation notices and reimbursement of all towing, storage, and other costs
 25 incurred as a result of the impoundment or immobilization.

26 SECTION 5. BE IT ENACTED by the County Council of Prince George's County,
 27 Maryland, that Section 28-266 of the Prince George's County Code be and the same are hereby
 28 added:

29 **SUBTITLE 28. CIVIL MONETARY FINES OR PENALTIES.**
 30 **DIVISION 3. MISCELLANEOUS CIVIL VIOLATIONS.**
 31 **SUBDIVISION 2. SPECIFIC CIVIL PENALTIES PRESCRIBED.**

Sec. 28-266. Violations by Special Food Service Facilities – Mobile Units.

(a) Any person who violates any of the following provisions of the County Code shall, upon citation issued pursuant to Subdivision 1, be deemed to have committed a civil violation and shall pay to the County a civil monetary fine in the amount prescribed by Subsection (b) of this Section:

Sections 5-2803

5-2806

5-2807

11-206

11-207

12-108

12-115(a)(1),(2)(A),(B),(C) and (D)

(1) Each publication of a statement which constitutes a violation shall be a separate and distinct civil violation subject to an additional citation and fine in the amount prescribed by Subsection (b) of this Section.

(b) The civil monetary fine for each civil violation of the provisions enumerated in Subsection (a) shall be Five Hundred Dollars (\$500.00), except as provided in Subsection (c) of this Section and as provided in Section 11-277(c).

(c) For a repeated civil violation, the following fines shall apply:

<u>2nd violation</u>	<u>\$500.00</u>
<u>Each subsequent violation</u>	<u>\$1,000.00</u>

SECTION 6. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

SECTION 7. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)

1 | calendar days after it becomes law.

Adopted this 6th day of October, 2015.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.