

Bill No. 26-04
Concerning: Vendors - Amendments
Revised: 12-9-04 Draft No. 2
Introduced: July 20, 2004
Enacted: December 14, 2004
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
- (2) generally clarify and amend the laws and procedures governing vendors.

By amending

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

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

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 pedestrian safety.

34 (c) 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 (a) 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 (1) notify 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)] (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 lawfully 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)] (d) * * *

83 [(d)] (e) * * *

84 *Approved:*

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86 /s/ 12/17/04

Thomas A. Perez, President, County Council Date

87 *Approved:*

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89 /s/ 12/21/04

Douglas M. Duncan, County Executive Date

90 *This is a correct copy of Council action.*

91

92 /s/ 12/22/04

Mary A. Edgar, CMC, Clerk of the Council Date