

**CITY OF FENTON ORDINANCE NO. 724  
AMENDMENT TO THE FENTON CODE OF ORDINANCES**

*An Ordinance to amend the City of Fenton Mobile Vendors Ordinance, which is Article II of Chapter 23 of the City of Fenton Code to secure the public health, safety and general Welfare of the residents and property owners of the City of Fenton, Genesee County, Michigan, by regulating Mobile Vendors within the City and to repeal all ordinances or parts thereof in conflict therewith.*

**THE CITY OF FENTON, GENESEE COUNTY, MICHIGAN ORDAINS:**

**SECTION 1: Article II of Chapter 23 of the City of Fenton Code is amended by repealing Article II and replacing it with the following:**

**ARTICLE II: MOBILE VENDORS**

**Sec. 23-16. - Findings and Purpose.**

It is hereby determined that authorizing Mobile Vendors requires protecting the public health, safety, and general welfare of City of Fenton residents. The provisions enacted in this Article are based upon, but not limited to, the following:

- (a) Public Health. Enforcing health regulations on Mobile Vendors can be problematic due to the mobile nature of the business. Mobile Vendors do not provide bathroom facilities for vendor operators or patrons, which raises concerns over health, proper sanitation, and proper waste disposal, especially when in connection with on-site food preparation. When Mobile Vendors congregate in the same area, the heightened intensity of use negatively impacts the surrounding area, particularly by increased trash, limitations on parking, traffic concerns, and increased noise in areas where ambient noises are otherwise reduced and subdued to maintain the City's established character.
- (b) Safety. It is recognized that conducting business within the city as a Mobile Vendor has negative land use, public safety, and traffic impacts. The primary purpose of the public right-of-way is for use by vehicular and pedestrian traffic. Mobile Vendors operating on city streets and sidewalks and public rights-of-way present a potential hazard to motorists, pedestrians, and vendor operators and their patrons. Potential safety hazards may arise from street geometry, traffic circulation patterns, and from differences between motor vehicle and mobile vendor travel speeds. Mobile Vendors operating and conducting business on the shoulders of streets or public rights-of-way are susceptible to a heightened degree of accident vulnerability particularly near intersections and driveways or on streets with higher speeds and traffic volumes. Mobile Vendors also contribute to vehicular traffic congestion and impact on-street parking availability. Mobile Vendors operating

upon or adjacent to public sidewalks impede the clear path of travel for pedestrians. Lack of or diminished space on sidewalks due to vending activities could force pedestrians onto streets and create particular difficulties for residents with disabilities. Locations of street fixtures further constrain available sidewalk space.

- (c) General Welfare. The aesthetics of Mobile Vendors must be regulated to protect the goals and desires of the city. Furthermore, Mobile Vendors are often established on vacant lots and can stymie permanent development on such lots. Regulation and monitoring of Mobile Vendors to ensure safety and compliance with established regulations and tax requirements are problematic due to the temporary and mobile nature of such businesses and must be regulated with the requisite specificity to meet the city's goals and desires.

### **Sec. 23-17. - Definitions.**

The following definitions apply to this Article:

*Brick-and-Mortar Business* means any fixed, permanent business on the City's tax rolls and in operation within the City of Fenton.

*Mobile Vending Facility* means a cart, structure, stand, vehicle, or other temporary or mobile physical establishment that sells made to order food or drink, but not being a Brick-and-Mortar Business.

*Mobile Vendor* means any person, individual, corporation, partnership, or any other entity recognizable as a "person" under the laws of Michigan, operating a Mobile Vending Facility.

*Private Function* means a private party, private function, or private event during which a Mobile Vendor operates a Mobile Vending Facility which meets all the following conditions:

- (1) The function is arranged for a specific social or business occasion.
- (2) The function's attendance is only by invitation or reservation.
- (3) The function is not open to the general public, and generally operating on private property.
- (4) The Mobile Vending Facility is providing food or drink services.

*Special Event* means an event that the City, through its Council, commission, board, or authority, approved, sponsored, or operated within the City that generally is an event open to the public and on City streets, parking lot or City property and facilities, or otherwise is

private but operating with City approval on City property and facilities.

*Temporary Business Use/ Event* means a temporary building, structure, use or event authorized in accordance with Sec. 36-2.33(a)(8) and (b) of the City of Fenton's Code of Ordinances that also includes a mobile vending facility but does not include a private function or special event.”

**Sec. 23-18. - Certification Requirement to Operate a Mobile Vending Facility.**

- (a) No Mobile Vendor shall operate a Mobile Vending Facility within the City without receiving certification from the City, paying the fees required under Sec. 23-19(d), and obtaining any other approvals necessary by law, except as specified in subsection (b), such as, but not limited to, zoning approval.
- (b) A Mobile Vendor who receives certification from the City pursuant to this article for a Mobile Vending Facility is not required to receive a separate peddler or solicitor's license to operate the certified Mobile Vending Facility and Chapter 23, Article I's regulations shall not apply to such Mobile Vending Facility.
- (c) Unless otherwise determined by resolution of the city council, certification under this ordinance is valid only for the calendar year in which it was issued and each certification granted under this ordinance expires on December 31 of the year in which the certification was issued, regardless of the date the certification was issued.

**Sec. 23-19. - Certification Mobile Vendor Application Requirements.**

- (a) Before a Mobile Vendor will be allowed to operate within the City, an applicant must fill out the “Mobile Vendor Certification Application” supplied by the City and file it with the Building and Zoning Administrator.
- (b) To be considered for certification, a Mobile Vendor Applicant must file a Mobile Vendor Certification Application at least seven (7) business days prior to the Mobile Vending Facility’s expected operations within the City, unless authorized by the Building and Zoning Administrator for filing, and any fee charged for such expedited review has been received with the application.
- (c) A Mobile Vendor applicant must perform the following actions and provide to the Building and Zoning Administrator in writing, if applicable, all of the following:
  - (1) The applicant's name, date of birth, home and work telephone numbers, electronic mail address, and permanent address, local address (if applicable), and business address.

- (2) If the applicant is employed, the name and address of the employer or parent organization the applicant represents and copies of credentials or documents verifying that relationship.
- (3) A brief description of the business nature of the Mobile Vending Facility represented and the food and drink to be sold.
- (4) Expected days and hours of operation.
- (5) A description of the type of Mobile Vending Facility to be used by the Mobile Vendor.
- (6) If a vehicle or other conveyance is to be used, a description of the same, together with license number, vehicle identification number or other adequate means of identification.
- (7) If a Mobile Vending Facility is to be placed upon the property of another, signed written evidence that the applicant has the consent of the legal owner of the property.
- (8) Signature of the applicant authorizing the police department to take fingerprints and conduct a background check of the applicant. Fingerprints shall not be requested or taken from any person under the age of 18 years. The cost for fingerprints and background check as set by the city shall be paid by the applicant at the time of application, and the requirement to provide fingerprints shall be at the discretion of the Police Chief.
- (9) If a motor vehicle is to be used, the applicant must provide a certified driving record for every individual who will operate a Mobile Vending Facility or tow vehicle used to transport a Mobile Vending Facility and make a written statement that the applicant and/or other individual has a current valid operator's license and whether the applicant has ever had his/her driving privileges revoked, suspended, or restricted, and the nature of any such revocation, suspension, or restriction.
- (10) It would be the City's preference that Mobile Vending Facilities be powered by alternative renewable energy sources. If, however an electrical generator is intended to be used, the generator must not exceed a decibel level of 60 dBA. The applicant must present the proposed generator for a decibel meter test to be conducted by the Building and Zoning Administrator, or their designee. A signed writing from the Building and Zoning administrator, or their designee, verifying that the proposed generator does not exceed a decibel level of 60 dBA is required for certification under this article if a generator is intended to be used. Noise, fumes, or other byproducts of the electrical generator also must

not violate the public nuisance or noise standards under the city's Code of Ordinances.

- (11) A signed, written statement as to whether the applicant has ever had any peddlers or other occupational licenses required by this City, or any other state or municipal authority, revoked, suspended, or denied within three years immediately prior to the date of application and the circumstances of any such revocation, suspension, or denial.
- (12) A copy of a valid current Michigan sales tax license, or, if exempt, a copy of a current exemption certificate, if required for the food or beverage sold.
- (13) If a Mobile Vendor sells foodstuffs for human consumption covered by the Michigan Food Law, Public Act 92 of 2000, a validly issued license from the Genesee County Health Department in accordance with that Act.
- (14) Insurance:
  - (i) Proof of general comprehensive liability policy with limits of no less than \$1,000,000.00 combined single limit coverage issued by an insurer licensed to do business in this state and which names the city as an additional insured;
  - (ii) Proof of public liability and property damage motor vehicle policy with limits of no less than \$500,000.00 issued by an insurer licensed to do business in this state;
  - (iii) If applicable, separate documentation as described in (i) and (ii) above showing that the Mobile Vending Facility and any tow vehicle used in connection with the operation and/or transport of the Mobile Vending Facility are covered under an insurance policy in accordance with the requirements of this Ordinance.
  - (iv) The City shall be added as an additional named insured on the insurance required under this article.
- (d) To be considered for certification all applicants must include with their application the following non-refundable fees:
  - (1) A certification fee in the amount of \$175.00, or as set by resolution of the city council, and
  - (2) An inspection fee in the amount of \$75.00 for each inspection performed by a city department, or as set by resolution of the city council. This fee must be paid for each inspection that occurs, including re-inspections.

**Sec. 23-20. - Applicant investigation, and Issuance or Denial of Certification.**

- (a) Upon receipt of a completed written application to operate within the city or an application for a certification under this article and the required fees, the application shall be referred to the Building and Zoning Administrator for approval.
- (b) Upon completion of investigation of the applicant, the police department shall make a recommendation of approval or disapproval based on the findings of the investigation to the Building and Zoning Administrator. Any recommendation of disapproval must be for good cause including, but not limited to, unsatisfactory criminal history of convictions for offenses, criminal and/or traffic, directly related to fitness for a certification; discovery of facts supporting lack of business responsibility; or any legitimate reason that the applicant presents a risk to the citizens if permitted to engage in mobile vending. The police department recommendation for approval or disapproval shall be made to the Building and Zoning Administrator's office no later than seven calendar days from the date of the application.
- (c) The Building and Zoning Administrator shall have the authority to, at their own discretion, approve, deny, or approve with conditions any application to operate a Mobile Vending Facility within the City.
- (d) After submitting a written application, all applicants and proposed Mobile Vending Facilities shall undergo safety inspections by the Fire Chief or his or her designee and the Building and Zoning Administrator or his or her designee prior to the approval of their application.
  - (1) Inspections are to be scheduled at the discretion of the Building and Zoning Administrator.
  - (2) All inspections of a Mobile Vending Facility must be carried out prior to the Mobile Vending Facility beginning operations within the City.
- (e) The Building and Zoning Administrator shall certify the application unless good cause exists to deny the application. The action taken by the city may be appealed, by written application, to the city manager, or his or her designee, pursuant to this article.

**Sec. 23-21. - Exemptions.**

The following shall be exempt from the requirements concerning certification

contained in this article, specifically Sections 23-18 through 23-20, but must otherwise comply with the remainder of this article:

- (1) Persons selling, providing, or offering only prepackaged, individually wrapped food items (e.g., ice cream).
- (2) Minors under the age of 14 selling, providing, or offering food or beverages for sale at a temporary, nonpermanent location in which proceeds of the sale are kept by the minor (e.g., lemonade stands).
- (3) Brick-and-mortar businesses having outdoor displays of their regular merchandise in the immediate vicinity of their principal place of business.

**Sec. 23-22. -Vending Requirements.**

Mobile Vendors operating a Mobile Vending Facility shall comply with all of the following:

- (1) *Location Requirements.* Except if a Mobile Vendor is operating pursuant to a special event, the following apply:
  - (a) Mobile Vendors and Mobile Vending Facilities may not operate within two-hundred fifty (250) feet of a Brick-and-Mortar Business during the hours when such restaurant is open to the public for business, unless operating at a private function or a special event.
  - (b) Mobile Vending Facilities shall not be located on a public street or in a public parking lot unless the City has provided permission.
  - (c) The customer service area for a Mobile Vending Facility shall not be located within a street, driveway, vehicular maneuvering lane or otherwise located such that it would result in a safety hazard for patrons or the general public.
  - (d) If located on a private or publicly owned parking lot, Mobile Vending Facilities shall only be located in areas that are striped for parking. Mobile Vending Facilities may not operate within driveways, drive aisles or fire lanes.
  - (e) If located on public streets, the customer service area of the Mobile Vending Facility shall be on the side that faces a curb, lawn, or sidewalk when parked. No service shall be provided on the driving side of the Mobile Vending Facility.

- (f) A Mobile Vending Facility shall not operate on public property within one block of a special event without authorization from the city.

(2) *Conduct Requirements.*

- (a) Mobile Vending Facilities shall comply with all applicable local codes, regulations, or ordinances; and all applicable federal, state, and county regulations.
- (b) Mobile Vending Facilities shall provide appropriate waste receptacles at the site of the Mobile Vending Facility. The Mobile Vendor is responsible, at their own expense, to remove all litter, debris, and other waste attributable to the Mobile Vendor or the products sold by the Mobile Vendor on a daily basis. All trash and garbage originating from the operation of the Mobile Vending Facilities shall be collected and disposed of off-site by the Mobile Vendors each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets, public parking lots, lawns, or other similar areas is allowed.
- (c) No food, with the exception of condiments, shall be prepared, sold, or displayed outside of the Mobile Vending Facility.
- (d) The dining areas, including but not limited to tables and chairs, booths, stools, benches or stand-up counters, must be placed at least ten feet away from the Mobile Vending Facility.
- (e) Signage is only allowed on the Mobile Vending Facility. Separate free-standing signs are prohibited.
- (f) Mobile Vending Facilities shall not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall have opaque, hood shields to direct the illumination downward.
- (g) Mobile Vending Facilities shall not use loud music, amplification devices, calling out, or any other audible methods to gain attention.
- (h) Mobile Vendors must display the certification issued by the City in a visible location on the Mobile Vending Facility, if applicable.
- (i) Mobile Vending Facilities may only operate between the hours of 9:00 a.m. to 10:00 p.m., except if otherwise operating as a private function or approved as part of a special event.

- (j) A Mobile Vendor shall not leave a Mobile Vending Facility located on city property unattended for more than one hour.
- (k) A Mobile Vendor shall not represent a certification granted under this article as an endorsement of the City.
- (l) Mobile Vending Facilities shall not use any electrical power source, water source, or wastewater source without the prior written authorization of the power customer.
- (m) All cables, hoses, cords, or any objects must be securely fastened by a wire cover or other like device so as to prevent a tripping hazard.
- (n) A Mobile Vendor shall not extend cables, hoses, cords, or any object across any public right-of-way.
- (o) Mobile vendors may use electrical generators. Vendors shall ensure that use of, or noise produced by, an electrical generator is not in violation of public nuisance or noise standards under the city's Code of Ordinances. Mobile vendors may not use electrical generators whose decibel level exceeds 60 dBA as rated by original manufacturer's specifications. Vendor shall take subsequent remedial measures to maintain the electrical generator. Vendor shall only use electrical generators that continue to perform at or below 60 dBA for noise level. Electrical generators shall not emit noxious fumes.
- (p) Mobile vending facilities shall not exceed 36 feet in length or nine feet in width, unless approved by the City.
- (q) Any Mobile Vending Facility is subject to inspection by the City to ensure compliance with this article.
- (r) Any certification issued under this article is not transferable to any other Mobile Vendor or Mobile Vending Facility.

**Sec. 23-23. - Marihuana and CBD Prohibition.**

No Mobile Vendor shall sell or give as a gift: marihuana, cannabidiol (CBD), or products containing CBD.

**Sec. 23-24. - Revocation.**

The city may revoke a certification of any Mobile Vendor who:

- (a) Violates any of the requirements of this article or the City Code;
- (b) Makes a false statement or misrepresentation on their application;
- (c) Commits any fraudulent act or makes any false statement or misrepresentation in the course of carrying on business as a mobile vendor; or
- (d) Conducts activity in a manner that is adverse to the protection of the public health, safety, and welfare. Immediately upon revocation, the city shall provide written notice to the Mobile Vendor to their place of business or residence as indicated on the application. Immediately upon revocation the certification shall become null and void.

**Sec. 23-25 - Appeals.**

Any person aggrieved by a denial or revocation of an application or certification may file an appeal with the city manager, or his or her designee. The appeal must be filed within 14 days after notice of the denial or revocation has been mailed to the person's last known address. The appeal must be in writing and must explain the grounds for appeal.

**Sec. 23-26. - Enforcement and Penalty.**

- (a) The Building and Zoning Administrator shall have the authority to interpret and apply the requirements of this Ordinance.
- (b) The Building and Zoning Administrator, or his or her designee, and any police officer shall enforce the provisions of this article against any person found to be violating it, and failure to produce a certification or information necessary to verify a claimed exemption under this article shall constitute probable cause for enforcement action.
- (c) Violation of this article shall be a civil infraction and shall be punishable by a civil penalty of \$500.00 for a person's first violation thereof and a penalty of \$500.00 for each violation thereafter.

**SECTION 2: Savings Clause.** All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

**SECTION 3: Severability.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

**SECTION 4: Repeal.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed. Further, the City may use the content of this Ordinance and compile/insert it into the existing City Code including making any technical provision numbering or clerical revisions as necessary for the compilation.

**SECTION 5: Effective Date; Publication.** This Ordinance shall become effective upon publication of a notice in a newspaper circulated in the city, stating the date of the enactment and the effective date of the Ordinance, a brief notice as to the subject matter of this Ordinance, and such other facts as the City Clerk shall deem pertinent and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

At a regular meeting of the City Council held on the 5<sup>th</sup> day of May, 2025, it was moved by Lockwood and supported by Bottecelli that Ordinance No. 724 be adopted.

Motion carried by roll call vote.

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Sue Osborn, Mayor

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Jennifer Kienast, City Clerk

I, Jennifer Kienast, City Clerk of the City of Fenton, hereby certify this to be a true and complete copy of Ordinance No. 724, duly adopted at a regular meeting of the City Council held on the 5<sup>th</sup> day of May, 2025.

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Jennifer Kienast, City Clerk