

1 **Ordinance To Amend And Re-Enact Chapter 34 Of The City Code Of The City Of Hampton,**
2 **Virginia Entitled “Streets and Sidewalks” By Amending Article I, Section 34-7 Regarding**
3 **Food Truck Sales Conducted On Or Adjacent To Public Right-Of-Ways**

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5 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that chapter 34 of the City
6 Code of the City of Hampton, Virginia, be amended and re-enacted as follows:

7
8 **CHAPTER 34 – STREETS AND SIDEWALKS**

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10 **ARTICLE I. – IN GENERAL**

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12 **SECTION 34-7 – SALES CONDUCTED ON OR ADJACENT TO PUBLIC RIGHT-OF-WAYS**

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14 (a) For the purposes of this section, "sale or exchange" shall be defined as the advertising,
15 displaying, offering or exchanging, for value, of any item mentioned in subsection (b) of this
16 section.

17 (b)

18 (1) The sale or exchange of any item, including, but not limited to, any and all goods,
19 wares, flowers, prepared or unprepared food or any other product, by any person from
20 any temporary structure, including, but not limited to, any table or stand, or from any
21 motor vehicle, trailer, cart, dray, wagon, pushcart or any hand or pedal-propelled vehicle,
22 which sale or exchange is conducted in any public right-of-way ~~or on any private~~
23 ~~property adjacent to a public right-of-way~~, shall be subject to the regulations set out in
24 this section. *The sale or exchange of prepared or unprepared food from a “mobile food*
25 *service facility,” also referred to as a “food truck,” shall also be governed by the*
26 *applicable requirements of Chapter 15 of the City Code and the Zoning Ordinance.*

27 (2) Seasonal sales. Sale or exchange shall also include "seasonal sales," which for
28 purposes of this section shall mean the sale or exchange of market produce and
29 agricultural products sold or exchanged during the local growing season, including but
30 not limited to Christmas trees, pumpkins, and summer vegetables and produce.

31 Seasonal sales shall not to include seafood products.

32 (c) No sale or exchange mentioned in subsection (b) above shall be made in any street or public
33 right-of-way along any street, for which the posted speed limit is greater than forty-five (45)
34 miles per hour, nor shall any such sale or exchange be made in any street or public right-of-way
35 within twenty-five (25) feet of any intersection.

36 (d) *On streets with a posted speed limit forty (45) miles per hour or less and not within twenty-*
37 *five (25) feet of any intersection, food trucks may conduct a* ~~No person conducting a sale or~~
38 ~~exchange mentioned in subsection (b) above~~ *of pre-packaged, pre-prepared foods in any street*
39 ~~or public right-of-way~~ *but shall not* ~~may~~ remain within any one (1) block area for more than
40 fifteen (15) minutes before moving to another block. Additionally, such sale or exchange may
41 not be repeated in the same block within any eight-hour period. A block shall be understood to
42 mean a section of a street between its intersection with two (2) adjoining streets, or a section of
43 street five hundred (500) feet in length, whichever is shorter.

~~(e) Persons conducting a sale or exchange of the type described in subsection (b) of this section on private property adjacent to a public right-of-way, and persons allowing their private property to be used for such sale or exchange, shall be subject to the following regulations:~~

~~(1) — No sale or exchange shall take place or be conducted, and no structure used for such sale or exchange shall be located, within fifty (50) feet of the closest edge of the nearest sidewalk pavement, or street pavement if there is no sidewalk, of any public right-of-way.~~

~~(2) — The person conducting the sale or exchange shall have obtained written permission to conduct such activity from the owner of the property involved, and shall have also obtained, from such owner, exclusive control over any area of the property, within the allowed area, sufficient to ensure that there is adequate space for the safe circulation of traffic. Such area shall not be less than eight hundred (800) square feet. The person conducting the sale or exchange shall not allow any other activity to be conducted within this minimal eight hundred (800) square foot area.~~

~~(3) — Such sale or exchange shall not be conducted on or from vacant lots except for seasonal sales as defined in this section.~~

~~(4) — Before any person may conduct such sale or exchange, such person must have provided to and have approved by the commissioner of the revenue a plat or site plan identifying the location of the property on which the activity is to be conducted and showing the location of the structure from which the sale or exchange activity will occur, the area under the control of such person and provisions for well-defined vehicular entrances and exits. Such plat or site plan shall be accompanied by a nonrefundable fee of twenty-five dollars (\$25.00) for processing. After review and approval of such plat or site plan by the commissioner of revenue, application shall be made to the commissioner of revenue for a permit to engage in the activities covered by this section, in accordance with this section and the approved plat or site plan. Such application shall state the name, address and telephone number of the person conducting the activity and the days and hours of operation, and shall include evidence of the property owner's permission to so use the property, as required above, as well as a copy of the approved plat or site plan. A copy of the permit issued by the commissioner of revenue, as well as a copy of the approved plat or site plan and the written permission of the property owner, shall be kept at the site of the activity, in a convenient place, and shall be exhibited, upon request, to any police officer or agent of the commissioner of revenue. Such permit must be obtained before a business license for such activity may be issued, and shall be renewed annually prior to the renewal of any business license.~~

~~(5)~~
~~Seasonal sales shall be permitted in accordance with the requirements of this section and shall not occur at any one parcel more than 120 days in any one calendar year.~~

~~(6)~~
~~Such permitted sales or exchanges shall only occur on properties where, pursuant to the zoning ordinance, "retail sales, general" is a permitted use or the primary use of the property is a religious facility, public or private school, structure to house a government function, community center, hospital, or private or fraternal club/lodge.~~

(f) The requirements of this section 34-7 shall not apply to:

88 (1) Outdoor sales and exchanges which occur as an incidental part of the retail sales
89 activity of a merchant regularly conducting business from a permanent building, where
90 such sales are conducted on the premises of the building and in close proximity to the
91 building;

92 (2) The otherwise lawful sale of market produce and related items from the site on
93 which they are grown;

94 (3) Garage sales in residential areas; or

95 (4) Sales or exchanges authorized as part of a special event permit issued pursuant
96 to the City Code.

97 (g) Nothing in this section shall exempt any person conducting a sale or exchange of the type
98 described herein from the requirements of the zoning ordinance or any other applicable
99 provision of law.

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