

PRELIMINARY STATEMENT

This lawsuit seeks to vindicate the fundamental right of Plaintiffs, who own and operate vendor trucks, colloquially known as “food trucks,” to earn an honest living free from irrational and protectionist government restrictions. Plaintiffs challenge the constitutionality of a Baltimore City (hereinafter “Baltimore”) law that bans all mobile vendors, including food trucks, from operating anywhere within 300 feet of any brick-and-mortar retail business that is “primarily engaged in selling the same type of food product, other merchandise, or service.” The 300-foot rule has only one, illegitimate purpose: to protect existing brick-and-mortar businesses from competition. But such economic protectionism violates Plaintiffs’ constitutional rights.

Mobile vending has long been an accessible avenue to entrepreneurship and the American Dream. Today, in cities across America, mobile vendors sell everything from hot dogs to designer fashions. The popularity of food trucks, in particular, has greatly grown over the last several years. This is because food truck businesses are an attractive opportunity for aspiring culinary entrepreneurs, and because consumers are excited by the variety of dining options that food trucks provide.

Unfortunately for Baltimoreans, the food-truck trend that has swept the nation has largely passed over the Charm City. This is due in large part to the 300-foot rule, which the Baltimore City Council passed in 2014. Under this law, mobile vendors are prohibited from operating anywhere within 300 feet of a brick-and-mortar business that primarily sells the same type of product. Penalties for violating the law are severe, including fines and the possibility of losing one’s vending license. This restriction does not address any legitimate government interest, including public health and safety concerns. Instead, it exists simply to protect brick-and-mortar businesses from competition.

Accordingly, Baltimore's 300-foot rule deprives Plaintiffs of their constitutional rights to equal protection and due process as guaranteed under Article 24 of the Maryland Constitution's Declaration of Rights.

JURISDICTION AND VENUE

1. At all times pertinent to this action, the acts complained of have occurred in or are occurring in Baltimore, Maryland.
2. This action arises under Article 24 of the Maryland Constitution's Declaration of Rights (rights to due process and equal protection) and the Maryland Declaratory Judgment Act, Md. Code Ann., Cts. & Jud. Proc. § 3-401, *et seq.*
3. This Court has jurisdiction over the subject matter pursuant to Article 4, Sections 1 and 20 of the Maryland Constitution. Venue is proper in this Court pursuant to Md. Code Ann., Cts. & Jud. Proc. § 6-401.

PARTIES

4. Plaintiff Pizza di Joey, LLC is a Maryland-based company with its principal place of business in Baltimore, Maryland.
5. Pizza di Joey, LLC operates a licensed vendor truck named Pizza di Joey. The Pizza di Joey food truck operates on both public and private property within Baltimore and elsewhere.
6. Plaintiff Pizza di Joey, LLC is owned by Joseph Salek-Nejad, d.b.a. Joey Vanoni (his mother's maiden name).
7. Joey is a citizen of the United States and a resident of Baltimore, Maryland.
8. Plaintiff Madame BBQ, LLC is a Maryland-based company with its principal place of business in Howard County, Maryland.

9. Madame BBQ, LLC operates a licensed vendor truck named Madame BBQ. The Madame BBQ food truck operates on both public and private property. The truck primarily operates in Howard County, but also periodically operates in Baltimore pursuant to Baltimore City Code, Article 15, Section 17-20, which provides for a temporary street-vendor license “to be used in connection with a charitable, educational, artistic, civic, or other public function.”

10. Madame BBQ, LLC is fully compliant with Howard County’s food-truck licensing requirements.

11. In order to regularly operate in Baltimore, Madame BBQ, LLC has applied for a Street Vendor License from the Baltimore City Department of Transportation. Upon receiving the Street Vendor License, Madame BBQ, LLC will apply for a Food Facility License and a Food Manager Certificate from the Baltimore City Health Department, as required by the Street Vendor Program Rules and Regulations, Section 200.

12. Plaintiff Madame BBQ, LLC is wholly owned by Nicole “Nikki” McGowan, a citizen of the United States and a resident of Oella, Maryland.

13. Defendant is the Mayor and City Council of Baltimore (hereinafter “City”), a municipal corporation organized under the laws of the State of Maryland.

FACTS

The Food-Truck Industry in the United States

14. Vendor trucks are commercial vehicles that enable entrepreneurs to travel from place to place, or remain in a fixed location, in order to sell and serve goods and services to customers. Plaintiffs operate food trucks to serve hungry customers throughout Baltimore and the Baltimore metro area.

15. Food trucks can take many different forms. Some only serve food that is prepared and prepackaged in licensed commercial kitchens. Other food trucks, like the Pizza di Joey and Madame BBQ food trucks, are self-sufficient mobile kitchens that let those working on board prepare and serve food directly from the food truck.

16. Historically, food trucks served simple products such as sandwiches and tacos, often to construction workers and manual laborers.

17. Today, food trucks serve a wide variety of cuisines to diverse clientele. The general public now benefits from food options that can range from Korean fusion, to cupcakes, to New England lobster rolls.

18. Food trucks not only benefit customers by providing them with a wide variety of dining choices, they also help improve communities in at least two distinct ways.

19. First, food trucks are job creators. In addition to the job created by the entrepreneur who opens a food truck, food trucks often hire additional staff. Food trucks also provide jobs to those who build, equip, and maintain the trucks.

20. Second, food trucks can help enliven urban communities. The popularity of food trucks often makes them a destination for loyal and prospective customers alike. Food trucks can help bring new energy to local communities.

Plaintiffs' Food-Truck Businesses

Pizza di Joey, LLC

21. Joey Vanoni, through his business Pizza di Joey, LLC is the majority owner and operator of the Pizza di Joey food truck.

22. Joey first began making pizzas as a high-school student at a Perth Amboy, New Jersey, pizzeria.

23. After high school, Joey joined the United States Navy. He retired from active duty in 2011, after seven years of service. He has been a Navy reservist for two and a half years.

24. Unfortunately, Joey had difficulty finding work when he returned from Afghanistan in 2013. Several job opportunities that Joey had lined up were no longer available.

25. Without any immediate opportunities, Joey began to explore his life-long dream of opening a pizza business. He realized that it was difficult to find authentic New York-style pizza in Baltimore. Rather than opening a brick-and-mortar pizzeria, Joey struck upon the idea of creating a mobile pizzeria in order to serve Baltimore's diverse neighborhoods.

26. Joey soon learned that Baltimore's limited food-truck scene lacked a pizza truck. He saw this as his chance to realize his entrepreneurial ambitions.

27. After ten months of equipping the food truck and securing the necessary licenses, the Pizza di Joey food truck opened in August 2014.

28. Joey currently operates the truck in Baltimore and throughout the Baltimore metro area on both public and private property. In addition to serving the general public, Joey also operates the Pizza di Joey food truck at private events.

29. Recognizing how difficult it can be for veterans to find work, Joey employs veterans on his truck. Since it opened in August 2014, Joey has provided work for five of his fellow veterans.

30. Because of the 300-foot rule contained in Baltimore City Code Article 15, Section 17-33, Joey has been prevented from operating the Pizza di Joey food truck in large parts of the city, and he has been threatened with its enforcement by law-enforcement officers.

31. Every day the food truck is open for business in Baltimore, Joey fears that he might have to defend himself against a citation. As described below, the 300-foot rule has caused, and continues to cause, injuries to Plaintiff Pizza di Joey, LLC.

Madame BBQ, LLC

32. Nikki McGowan, through her business Madame BBQ, LLC is the sole owner and operator of the Madame BBQ food truck.

33. Growing up, Nikki fell in love with the restaurant business. Throughout high school, college, and early in her professional career, she held various restaurant positions, including busser, hostess, waitress, and bartender.

34. After a career working with autistic children and the mentally ill, Nikki decided to again pursue her passion for the restaurant business. In 2008, she began working as a part-time cook at a local Maryland restaurant.

35. One year later, in 2009, Nikki fully committed to a culinary career and started her own company providing cooking classes for children throughout Howard County, Maryland.

36. This business helped Nikki support her three children as a single mother.

37. An entrepreneur at heart, Nikki expanded her culinary business by opening the Madame BBQ food truck in 2015.

38. The food truck provided Nikki with a flexible entrepreneurial opportunity to share her love of cooking with entirely new communities and customers.

39. The flexibility the food truck business was particularly important to her because it allowed Nikki to operate the business during lunch time while her kids were at school and before her afternoon cooking classes.

40. In addition to providing her with a flexible business opportunity, Nikki also uses the Madame BBQ truck as an educational tool for her cooking-class students. Often former students will work on the truck in order to gain real life culinary and customer-service experience.

41. Nikki has primarily operated the Madame BBQ food truck in Howard County, Maryland. She periodically obtains a temporary license under Baltimore City Code Article 15, Section 17-20 in order to operate the food truck in Baltimore. The temporary license allows her to operate in Baltimore for a limited period of time, often in conjunction with a particular community event.

42. Madame BBQ, LLC is fully compliant with Howard County's food-truck licensing requirements.

43. Wanting to operate regularly in Baltimore, Nikki has applied, through Madame BBQ, LLC, for a Street Vendor License from the Baltimore City Department of Transportation. Upon receiving the Street Vendor License, Madame BBQ, LLC will apply for a Food Facility License and a Food Manager Certificate from the Baltimore City Health Department, as required by the Street Vendor Program Rules and Regulations, Section 200.

44. Upon licensure, Nikki would regularly operate her food truck in Baltimore but for the 300-foot rule.

45. Nikki personally knows of food trucks that have been prevented from operating in specific locations because of the 300-foot rule. Because the rule will similarly prevent her from

operating in specific locations due to nearby brick-and-mortar barbeque restaurants, she believes and fears that the restriction would prevent the Madame BBQ food truck from succeeding in the city.

Baltimore's 300-Foot Rule

46. The City regulates all mobile vendors, including food trucks, under Article 15, Subtitle 17 of the Baltimore City Code and the Street Vendor Program Rules and Regulations.

47. The city code defines a mobile vendor as “any person that sells, distributes, or offers to sell or distribute food products, other merchandise of any kind, or services from a motor vehicle on City streets or private property.” Baltimore City Code, art. 15, § 17-1(e)(1).

48. The city code defines a “vendor truck,” like the food trucks Plaintiffs operate, as “any motor vehicle used for the purpose of selling any food product, other merchandise, or service by a mobile vendor.” Baltimore City Code, art. 15, § 17-1(k).

49. Vendor trucks are subject to a variety of regulations. Most are straightforward, such as providing “sufficient trash receptacles,” Baltimore City Code, art. 15, § 17-30(a), removing trash around the truck, Baltimore City Code, art. 15, § 17-30(b), and displaying an identification badge with the vendor’s name and address, Baltimore City Code, art. 15 § 17-24(c)-(d).

50. But Baltimore law also states that “[a] mobile vendor may not park a vendor truck within 300 feet of any retail business establishment that is primarily engaged in selling the same type of food product, other merchandise, or service as that offered by the mobile vendor.” Baltimore City Code, art. 15, § 17-33.

51. The 300-foot rule contained in Article 15, Section 17-33 applies to mobile vendors operating on both public and private property.

52. On February 5, 2016, Michelle Abbott-Cole, of the Baltimore Department of Transportation, and Babila Lima, of the Mayor's office, met with Dave Pulford, owner and operator of the Upslidedown Dave food truck and President of the Maryland Mobile Food Vending Association, to explain how the 300-foot rule is applied to food trucks.

53. Ms. Abbott-Cole stated that the 300-foot rule prohibits food trucks from operating within 300 feet of a brick-and-mortar restaurant that primarily sells the same type of food or has a similar theme.

54. Thus, under the law, Plaintiff Pizza di Joey, LLC which serves New York-style pizzas, is prohibited from operating anywhere within 300 feet of any brick-and-mortar pizzeria.

55. Similarly, Plaintiff Pizza di Joey, LLC, would be prohibited from operating within 300 feet of a food establishment, such an Italian restaurant, which features pizza on its menu.

56. Likewise, under the law, Plaintiff Madame BBQ, LLC which serves barbeque, is prohibited from operating anywhere within 300 feet of any brick-and-mortar barbeque restaurant.

57. Similarly, Plaintiff Madame BBQ, LLC, would be prohibited from operating within 300 feet of a food establishment that features barbeque on its menu.

58. A mobile vendor that violates the 300-foot rule is subject to a fine of \$500. Baltimore City Code art. 15, § 17-42. Additionally, the City may revoke a mobile vendor's license for violating the ban. Baltimore City Code, art. 15, § 17-44(a).

59. Baltimore law in fact mandates that the City revoke a mobile vendor's license upon the third violation of any prohibited conduct, including the 300-foot rule, within a one-year period. Baltimore City Code art. 15, § 17-44(b). Once revoked, the former licensee may not apply for a new license for at least one year. Baltimore City Code art. 15, § 17-44(c).

60. The City actively enforces the 300-foot rule.

61. Typically, that enforcement begins when a retail establishment calls law enforcement and alleges that a mobile vendor is violating the 300-foot rule. Law-enforcement officers then approach the mobile vendor allegedly in violation of the 300-foot rule and threaten a \$500 citation unless the mobile vendor relocates. In order to avoid receiving the citation, the mobile vendor moves even though it is often unclear whether the truck is actually within 300 feet of a brick-and-mortar business that is “primarily engaged in selling the same type” of food product, merchandise, or service.

62. Joey has directly experienced the City’s enforcement of the 300-foot rule. In May 2015, Joey was operating the Pizza di Joey food truck at 801 West Baltimore St., Baltimore, Maryland. As Joey served up pies, two police officers alleged that the food truck was in violation of the 300-foot rule. Joey subsequently produced a copy of the Baltimore City Code, including the 300-foot rule, and showed it to the officers. Joey asserted that he was not in violation of the 300-foot rule because there was no brick-and-mortar business within 300 feet of his truck that served pizza. The police officers conferred via radio, presumably with other individuals within the Baltimore City Police Department, and determined that Joey was not in violation of the 300-foot rule. They subsequently allowed Joey to continue operating the food truck from the location.

63. Joey is personally aware that other food trucks have avoided receiving similar threats by going out of their way to ensure that they are not in violation of the 300-foot rule.

64. Nikki is personally aware of food trucks that have been threatened by restaurant owners and/or law enforcement officers for violating the 300-foot rule.

INJURIES TO PLAINTIFFS

65. Plaintiffs hereby incorporate the allegations set forth above, all of which are fully re-alleged here.

66. The 300-foot rule prohibits Plaintiffs' food trucks from operating anywhere within 300 feet of any brick-and-mortar retail business that serves the same type of food product, including restaurants, sandwich shops, cafes, and even convenience stores.

67. The 300-foot rule prohibits Plaintiffs' food trucks from operating anywhere within 300 feet of any brick-and-mortar retail business that has a similar culinary theme as that offered by the food truck.

68. This rule creates thousands of "no-vending" zones surrounding every restaurant and other brick-and-mortar food establishment in the city, within which no food truck that serves the same type of food may vend on either public or private property.

69. There is no comparable barrier to opening a competing brick-and-mortar restaurant next to an existing food business.

70. For example, the Pizza di Joey food truck is prohibited from operating within 300 feet of a brick-and-mortar pizzeria. But nothing in Baltimore's law would prevent Joey from opening his own brick-and-mortar pizzeria within 300 feet of that same pizza business.

71. Likewise, the Pizza di Joey food truck would be prohibited from operating within 300 feet of a food establishment, such as an Italian restaurant, that features pizza on its menu. But nothing in Baltimore's law would prevent Joey from opening his own brick-and-mortar pizzeria within 300 feet of that same business.

72. Similarly, the Madame BBQ food truck is prohibited from operating within 300 feet of a brick-and-mortar barbeque restaurant. But nothing in Baltimore's law would prevent Nikki from opening her own brick-and-mortar barbeque restaurant within 300 feet of that same barbeque business.

73. Likewise, the Madame BBQ food truck would be prohibited from operating within 300 feet of a food establishment that features barbeque on its menu. But nothing in Baltimore's law would prevent Nikki from opening her own brick-and-mortar barbeque restaurant within 300 feet of that same food establishment.

74. Thus, the Pizza di Joey food truck cannot operate within 300 feet of Bagby Pizza Co., located at 1006 Fleet Street, or Iggies, located at 818 North Calvert Street No. 1, which both sell pizza, but Joey could open competing brick-and-mortar pizzerias next to both businesses.

75. Similarly, the Madame BBQ food truck cannot operate within 300 feet of HarborQue, located at 1125 South Charles Street, or KO BBQ, located at 146 South Charles Street, which both sell barbeque, but Nikki could open competing brick-and-mortar barbeque restaurants next to both businesses.

76. The 300-foot rule irrationally discriminates between different mobile vendors. Because Article 15, Section 17-33 turns solely on whether a brick-and-mortar food establishment is "primarily engaged in selling the same type of food product" as a mobile vendor, Pizza di Joey would be prohibited from operating within 300 feet of a pizzeria, but Madame BBQ could operate directly in front of that same pizza business. Similarly, Madame BBQ would be prohibited from operating within 300 feet of a barbeque restaurant, but Pizza di Joey could operate directly in front of that same barbeque business.

77. There is no legitimate government interest for this arbitrary, discriminatory classification that turns exclusively on Joey's decision to sell pizza and Nikki's decision to sell barbeque.

78. Additionally, there is no real and substantial relationship between any legitimate government interest and prohibiting food trucks from operating within 300 feet of brick-and-mortar businesses just because those businesses are "primarily engaged in selling the same type" of food.

79. The 300-foot rule does not advance any public health or safety purpose, or any other legitimate government interest.

80. The only purpose of the 300-foot rule is to protect brick-and-mortar businesses from competition by mobile vendors.

81. Because of the City's enforcement of the 300-foot rule, Joey must go out of his way to avoid entire neighborhoods with competing brick-and-mortar businesses.

82. Joey would like to operate the Pizza di Joey food truck near the corner of South Charles Street and Cross Street in the Federal Hill neighborhood. But he may not legally do so because Mad River Bar and Grill (located at 1110 South Charles Street), which sells pizzas, is located within 300 feet of where he would operate. But for the 300-foot rule, Joey would be able to legally operate at this location and would do so.

83. Joey would also like to have Pizza di Joey operate near the corner of South Broadway and Aliceanna Street in the Fells Point neighborhood. He cannot legally do so, however, because Hot Tomatoes (located at 717 South Broadway) and Bop Brick Oven Pizza (located at 800 South

Broadway), both of which sell pizzas, are located within 300 feet of where he would operate. But for the 300-foot rule, Joey would be able to legally operate at this location and would do so.

84. The 300-foot rule makes it difficult for Joey to reach potential customers. Because of the rule, Joey is forced to operate his food truck farther away from potential customers and in less desirable locations.

85. Frustrated by his inability to freely operate in large swaths of Baltimore, Joey has increasingly turned to private events to make ends meet.

86. Plaintiff Madame BBQ, LLC would have already been licensed in Baltimore and would primarily operate there but for the 300-foot rule.

87. Through her business Madame BBQ, LLC, Nikki has applied for a Street Vendor License from the Baltimore City Department of Transportation. Upon receiving the Street Vendor License, Madame BBQ, LLC will apply for a Food Facility License and a Food Manager Certificate from the Baltimore City Health Department.

88. When Nikki receives a Street Vendor License, a Food Facility License, and a Food Manager Certificate, she will be authorized to operate her food truck in Baltimore on a daily basis, and she would do so but for the 300-foot rule.

89. Nikki intends to refrain from regularly doing business in Baltimore until the 300-foot rule is eliminated because it would preclude her from operating in large swaths of the city, particularly those locations best for attracting potential customers.

90. Nikki would like to operate the Madame BBQ food truck near the corner of South Charles Street and East Cross Street in the Federal Hill neighborhood, the corner of South Charles Street and East Pratt Street in the Inner Harbor neighborhood, and the corner of South

Broadway and Fleet Street in the Fells Point neighborhood. She cannot legally do so, however, because HarborQue (located at 1125 South Charles Street), KO BBQ (located at 146 South Charles Street), and Hungry Andy's (located at 629 South Broadway), which all sell barbeque, are located within 300 feet of where she would operate. But for the 300-foot rule, Nikki would be able to legally operate at these locations and would do so once she is approved by the City.

91. Plaintiffs' food trucks are important avenues of income that Joey and Nikki have relied upon to support themselves and their families. They seek to do nothing more than offer food for sale from their trucks without being hampered by the City's 300-foot rule.

92. Plaintiffs' businesses have suffered due to the 300-foot rule contained in Article 15, Section 17-33 of the City Code.

93. But for the City's enforcement of Article 15, Section 17-33, Plaintiffs could and would legally vend within 300 feet of existing brick-and-mortar food establishments that primarily sell the same type of food.

94. Through the City's arbitrary acts as alleged above, Plaintiffs are injured irreparably by the deprivation of their equal-protection and due-process rights to earn an honest living free from arbitrary, irrational, and anticompetitive government interference as guaranteed by the Maryland Constitution's Declaration of Rights.

COUNT I

(Violation of Article 24 of the Maryland Constitution's Declaration of Rights – Equal Protection)

95. Plaintiffs incorporate Paragraphs 1 through 94 by reference as though fully alleged in this Paragraph 95.

96. Article 24 of the Maryland Constitution's Declaration of Rights provides "[t]hat no man ought to be . . . deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land."

97. Although the Declaration of Rights does not contain an express guarantee of equal protection of the laws, decisions from the Maryland Court of Appeals make clear that Article 24 protects a person's right to equal treatment under the law. *See, e.g., Verzi v. Baltimore Cty.*, 333 Md. 411, 417 (1994).

98. The equal-protection guarantee of the Declaration of Rights protects similarly situated Maryland residents from discriminatory classifications that do not bear a real and substantial relationship to a legitimate government interest.

99. The 300-foot rule contained in Article 15, Section 17-33 of the City Code violates Plaintiffs' constitutional right to equal protection under the law both on its face and as applied because it arbitrarily discriminates between Plaintiffs and other mobile vendors, depending on what they sell.

100. The rule creates a discriminatory classification that penalizes Plaintiffs based entirely on whether they are within 300 feet of a brick-and-mortar business that primarily sells the same type of food. Thus, Pizza di Joey cannot operate in an area where there are pizza parlors, but Madame BBQ can. Similarly, Madame BBQ cannot operate in an area where there are barbecue restaurants, but Pizza di Joey can.

101. This classification has no real or substantial relationship to any legitimate government interest, including protecting public health and safety. A food truck, such as Pizza di Joey,

presents no threat to any legitimate government interest merely because it is parked outside of a pizzeria or another food establishment that features pizza on its menu.

102. In other words, the 300-foot rule is nothing more than economic protectionism, which is not a legitimate government interest.

103. The City's police power does not extend to engaging in economic protectionism to benefit brick-and-mortar establishments at the expense of mobile vendors, including food trucks, for no reason other than to protect the former from competition by the latter.

104. Unless the City is enjoined from committing the above-described violations of the equal-protection guarantee of Article 24, Plaintiffs will continue to suffer great and irreparable harm.

105. Pursuant to the Maryland Declaratory Judgment Act, Md. Code Ann., Cts. & Jud. Proc. § 3-409, Plaintiffs respectfully ask the Court to enter a judgment declaring the 300-foot rule, contained in Article 15, Section 17-33 of the Baltimore City Code, unconstitutional both on its face and as applied to Plaintiffs as a violation of the equal-protection guarantee of Article 24 of the Maryland Constitution's Declaration of Rights, and enjoin the rule's continued enforcement.

COUNT II

(Violation of Article 24 of the Maryland Constitution's Declaration of Rights – Due Process)

106. Plaintiffs incorporate Paragraphs 1 through 94 by reference as though fully alleged in this Paragraph 106.

107. Article 24 of the Maryland Constitution's Declaration of Rights contains an express right to due process: "[t]hat no man ought to be taken . . . of his liberties or privileges . . . or

deprived his life, liberty or property, but by the judgment of his peers, or by the Law of the land.”

108. The Due Process Clause protects Maryland residents’ right to pursue the occupation of their choice free from arbitrary regulations that lack any real and substantial relationship to a legitimate government interest.

109. The 300-foot rule contained in Article 15, Section 17-33 of the City Code violates Plaintiffs’ constitutional right to due process both on its face and as applied to the extent that it arbitrarily prohibits Plaintiffs from selling food within 300 feet of any store that is “primarily engaged” in selling the same type of food.

110. There is no real and substantial relationship between enforcing the 300-foot rule and any legitimate government interest, including protecting public health and safety. A food truck, such as Madame BBQ, presents no threat to any legitimate government interest merely because it is parked outside of a barbeque restaurant or another food establishment that features barbeque on its menu.

111. The exclusive purpose of the 300-foot rule is to protect brick-and-mortar businesses from competition by mobile vendors. Economic protectionism is not a legitimate government interest.

112. The City’s police power does not extend to engaging in economic protectionism to benefit brick-and-mortar establishments at the expense of mobile vendors, including food trucks, for no reason other than to protect the former from competition by the latter.

113. Unless the City is enjoined from committing the above-described violations of the Due Process Clause of Article 24, Plaintiffs will continue to suffer great and irreparable harm.

114. Pursuant to the Maryland Declaratory Judgment Act, Md. Code Ann., Cts. & Jud. Proc. § 3-409, Plaintiffs respectfully ask the Court to enter a judgment declaring the 300-foot rule, contained in Article 15, Section 17-33 of the Baltimore City Code, unconstitutional both on its face and as applied to Plaintiffs as a violation of the Due Process Clause of Article 24 of the Maryland Constitution's Declaration of Rights, and enjoin the rule's continued enforcement.

PRAYER AND RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for judgment as follows:

- A. For a declaratory judgment in favor of Plaintiffs that the City's enforcement of Baltimore City Code Article 15, Section 17-33 violates the constitutional right to equal protection and due process, contained in Article 24 of the Maryland Constitution's Declaration of Rights, both on its face and as applied to Plaintiffs, by unreasonably interfering with Plaintiffs' right to earn a living free from arbitrary and irrational government interference;
- B. For a permanent injunction in favor of Plaintiffs and against the City prohibiting the City from enforcing Baltimore City Code Article 15, Section 17-33;
- C. For an award of one dollar in nominal damages;
- D. For an award of Plaintiffs' costs and expenses of this action, together with reasonable attorneys' fees; and
- E. For such other and further relief as this Court deems just and proper.

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**Pro hac vice application to be filed*

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