

Introduced by: Councilmember Smith

First Reading: June 3, 2013

Second Reading: June 17, 2013

Effective Date: July 1, 2013

CITY OF TAKOMA PARK, MARYLAND

ORDINANCE NO. 2013-21

(Amending the Takoma Park Code to repeal the current code regulating transient merchants and provide for the permitting and regulation of vendors with the adoption of new provisions governing vendors)

WHEREAS, the Takoma Park City Council recognizes the importance of small, local businesses such as mobile vendors and food trucks to the Takoma Park economy; and

WHEREAS, the City's economic development efforts include nurturing and supporting small businesses; and

WHEREAS, the Council desires to facilitate the permitting and regulation of vendors operating within the community by repealing Takoma Park Code Chapter 8.12 Peddlers, Canvassers and Transient Merchants and adopting new regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND.

SECTION 1. Title 8 Business, Chapter 8.12 Peddlers, Canvassers and Transient Merchants of the *Takoma Park Code* is hereby repealed and attached to this ordinance for reference.

SECTION 2. Title 8 Business, Chapter 8.12 Vendors *Takoma Park Code* is adopted as follows:

Chapter 8.12 VENDORS

- 8.12.010 Definitions
- 8.12.020 Exemptions from Vendor Permit requirements
- 8.12.030 Exclusion by residents and occupants
- 8.12.040 Vendor Permits required; applications
- 8.12.050 Fees, duration, expiration and renewal
- 8.12.060 Display of permits
- 8.12.070 Hours of operation and scheduling
- 8.12.080 Use of streets, sidewalks and City property
- 8.12.090 Recycling and trash
- 8.12.100 Approval or disapproval of applications and site plans
- 8.12.110 Suspension and revocation
- 8.12.120 Appeals
- 8.12.130 Violations
- 8.12.140 Recordkeeping

8.12.010 Definitions

Canvasser. A canvasser is a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser attempts to raise money for or against such cause.

City Manager. The City Manager of the City of Takoma Park or his or her designee.

Door-to-Door Vendor. A vendor who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident, for the purpose of selling a good or service, including cultivating business leads.

Farmers Market. A City-approved recurring gathering of farmers and growers co-locating for the purpose of selling fresh fruits and vegetables, other locally-grown farm products, and value added food products directly to consumers.

Fixed Location Vendor. A vendor that sells from an approved location on City-owned property with the permission of the City or on privately-owned property with the permission of the property owner for a period of more than 15 minutes. Fixed Location Vendors include stands, vehicles, carts and other mobile or stationary means of sale.

Person. An individual person or a business entity.

Roaming Vendor. A vendor that sells goods or services from a vehicle, cart, or on foot without remaining in a single location for more than 15 minutes.

Special Event Vendor. A vendor that sells at an event permitted by the City for a specific location, date, and hours of operation.

Yard Sale. The sale, on noncommercial property, of goods previously used by the seller. This also includes all similar sales activities such as "porch sales", "garage sales", "lawn sales", "moving sales", and "community sales."

8.12.020 Exemptions

A. The permit requirements of this Chapter do not apply to any of the following:

1. Canvassers;
2. Farmers Markets;
3. Special Event Vendors;
4. Yard Sales, provided that no more than four Yard Sales, on discrete days, are held on an individual property per calendar year. Sales on vacant lots are not exempt from the vendor provisions;
5. Any person meeting the resident or occupant of a premises for a previously scheduled

appointment for the purpose of selling or attempting to sell goods or services to the resident or occupant;

6. Acts of merchants or their employees in delivering goods:
 - a. In the regular course of business, or
 - b. To regular customers on established routes;
7. City organized events;
8. Any activity authorized by the City under any provision of the Code or Administrative Regulation;
9. Persons who take orders solely for the delivery of newspapers.

B. Nothing in this Chapter prohibits sales required by statute or court order or bona fide auction sales pursuant to law.

8.12.030 Exclusion by residents and occupants

Any resident or business owner in the City who wishes to exclude vendors or canvassers from premises occupied by him or her may place upon or near the usual entrance to such premises a printed sign bearing the following notice: "Vendors Prohibited," which shall prohibit vendors, or "Vendors and Canvassers Prohibited," which shall prohibit vendors and canvassers. Such sign shall be at least 4" long and 6" wide and the printing thereon shall be clear and legible. No vendor or canvasser shall enter in or upon any premises, or attempt to enter in or upon any premises where a sign prohibiting them is present.

8.12.040 Vendor Permits required; Applications.

- A. Vendors must first obtain the appropriate Vendor Permit before conducting business in the City. Available Vendor Permits include the following:
 1. Door-to-Door Vendor Permit
 2. Roaming Vendor Permit; and
 3. Fixed Location Vendor Permit for private and City-owned property
- B. Scope of Vendor Permits.
 1. A unique Door-to-Door Vendor Permit is required of every individual person conducting door-to-door vending in the City.
 2. No permit holder shall simultaneously conduct sales from more than one vehicle under a single Roaming Vendor Permit.
 3. Fixed Location Vendor Permits.
 - a. No business entities or individual persons shall simultaneously conduct vending activity in more than one location under a single Fixed Location Vendor Permit.
 - b. A Fixed Location Vendor Permit authorizes the permit holder to engage in vending activities only in accordance with the site plan(s) approved by the City Manager.
- C. Applicants for a Vendor Permit must submit the following with their permit application:

1. Copies of all State and County permits and licenses necessary for the applicant to conduct the proposed activity;
2. State-issued photo identification of the applicant, if the applicant is an individual, or an owner, officer, or director of the applicant, if the applicant is a business entity;
3. If the applicant is a business entity, proof that the entity is properly qualified to do business in Maryland under state law.
4. License plate numbers for the vehicle to be used to conduct vending activity;
5. Written authorization from the owner(s) of any private property upon which the vendor will be operating with a site plan or plans noting where the vendor is to be located and the location of on-site parking spaces, traffic lanes, dumpsters and existing structures; and
6. For applicants for a Fixed Location Vendor Permit seeking to vend on City property, proof of a liability insurance policy with coverage of at least \$1 million per incident, naming the City as an additional insured.

8.12.050 Fees, duration, expiration, and renewal

- A. A nonrefundable processing fee of \$75.00 will be charged to each applicant at the time an application for a Vendor permit is filed with the City Clerk.
- B. Permits will be issued for a one year period effective from the date of issuance.
- C. All permits issued under this Chapter shall expire at 12:00 midnight one year from the date of issuance.

8.12.060 Display of permits

- A. Every approved vendor is required to exhibit its permit certificate upon request. Vendors operating from a stand, vehicle, or cart must display their vendor permit for customers.
- B. No permit shall be used at any time by any person other than the person to whom the permit is issued and the individual agents and employees of that person.

8.12.070 Hours of operation and scheduling

- A. Canvassers may canvass between 9:00 a.m. and 9:00 p.m.
- B. Door-to-door vendors shall only conduct business between 9:00 a.m. and 8:00 p.m.
- C. Roaming and fixed location vendors shall only conduct business between 8:00 a.m. and 9:00 p.m.
- D. Fixed location vendors selling on City property must reserve their location and time slot with the City Manager. Reservation requests will be reviewed and confirmed by City staff.

8.12.080 Use of streets, sidewalks and City property

- A. No fixed location or roaming vendor shall have an exclusive right to any location on a public street or sidewalk.
- B. A Fixed Location Vendor Permit is required for vendors operating on City property and in permitted property in the City right-of way. The City Manager may specify the hours and locations that a vendor may operate on City property. Locations where the City Manager may permit fixed location vendors to operate on City property include the following:
 - 1. Takoma Junction Public Parking Lot (adjacent to 201 Ethan Allen Avenue)
 - 2. B.Y. Morrison Park (across from the 7300 block of Carroll Avenue)
 - 3. Takoma Park Community Center – Sam Abbott Citizen Center Parking Lot (7500 Maple Avenue);
 - 4. Such other locations designated by ordinance or regulation.
- C. Roaming vendors must not operate in a congested area where the operation might endanger, impede or inconvenience the public or the public's use of the streets or sidewalks and must not stand for more than 15 minutes in a single block during a three-hour period.

8.12.090 Recycling and trash

- A. Vendors selling from stands, vehicles, or carts shall provide separate receptacles for trash and recyclable matter. The contents of each receptacle must be removed daily by the vendor. Vendors must not let any trash be deposited on any street, sidewalk or other public or private property. Vendors must remove any waste left by their customers in the vicinity of their business.
- B. The use of Styrofoam or similar polystyrene food service ware and containers is prohibited.

8.12.100 Approval or disapproval of applications and site plans

- A. The City Manager may refuse to issue a Vendor Permit upon a finding that the applicant has knowingly provided inaccurate information on his or her application, withheld or falsified any information required to be submitted in order to obtain a permit, failed to adhere to permitting requirements in the past, or a determination is made that approval of the Vendor Permit will create a public nuisance as defined in Section 6.36.010 of the City Code.
- B. The City Manager shall refuse to approve any proposed site plan for fixed location vending activity under which the proposed vending activity would create a safety hazard, render the parking facilities for the property inadequate, or interfere with traffic. The

City Manager shall refuse to issue a Fixed Location Vendor Permit upon a finding that the applicant has not submitted a satisfactory site plan.

- C. The City Manager will approve or disapprove the application within 5 business days after the applicant has filed the application.
- D. No person whose Vendor Permit application has been denied may apply for a Vendor Permit within six months of the denial.

8.12.110 Suspension and revocation of Vendor Permits

- A. Permits issued under this Chapter may be revoked by the City Manager for any of the following grounds:
 - 1. Fraud, misrepresentation or incorrect statement contained in the Vendor's application;
 - 2. Fraud, misrepresentation or incorrect statement made by a Vendor in the course of vending activity;
 - 3. Violation of any City, County, State, or Federal law;
 - 4. Conducting vending activity in an unlawful manner or in a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public;
 - 5. Violating a condition of the Vendor Permit.
- B. The City Manager may suspend a Vendor Permit when the permit holder is under investigation for any action identified in subsection (A) of this section. If a permit is suspended for reasons that prove to be unfounded, the permit may be extended for a period of time equal to the period of suspension.
- C. If the City Manager revokes or suspends a Vendor Permit, the City Manager shall promptly notify the permit holder in writing.
- D. No person whose Vendor Permit has been revoked under the provisions of this section may apply for a Vendor Permit within six months of the revocation.

8.12.120 Appeals

- A. Any vendor or applicant aggrieved by the denial, revocation, or suspension of a Vendor Permit has the right to appeal to the City Manager.
- B. The appeal must be filed with the City Manager within 10 business days after the date of issuance of the notice of action and include a written statement setting forth fully the grounds for the appeal.
- C. The City Manager will consider the appeal and provide a final written decision to the applicant or vendor within 10 business days after receipt of the appeal.

8.12.130 Violations

- A. Any violation of Chapter 8.12 or the conditions of a Vendor Permit is a Class A offense.
- B. Police Officers, Code Enforcement Officers, and any other person designated by the City Manager shall have the authority to issue municipal infraction citations for violations of this Chapter.

8.12.140 Recordkeeping

The City Manager shall maintain a record of each Vendor Permit issued along with reports of violations committed by the vendor. Such records shall be maintained for 5 years from the date of expiration of the Vendor Permit.

SECTION 3. Effective Date. This Ordinance shall become effective July 1, 2013.

**ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND,
THIS 17TH DAY OF JULY, 2013, BY ROLL-CALL VOTE AS FOLLOWS:**

AYE: Williams, Grimes, Male, Daniels-Cohen, Seamens, Smith, Schultz

NAY:

ABSENT:

ABSTAIN: