

Introduced by: Councilmember Kovar

First Reading: February 14, 2018

Second Reading: February 21, 2018

Effective Date: March 13, 2018

**City of Takoma Park, Maryland**

**Ordinance No. 2018-8**

**Amending the *Takoma Park Code* Chapters 8.16, Sale of Food and Drink, to Allow for Outdoor Cafe Seating in the Public Right-of-Way**

WHEREAS, the City Council wishes to support businesses operating in the City; and

WHEREAS, outdoor seating at restaurants, cafes, food trucks, and other food service facilities improves the vitality and walkability of the City’s business districts, attracting customers to the food service facilities and neighboring businesses; and

WHEREAS, many food service facilities do not have space available on private property for outdoor seating; and

WHEREAS, there are many areas in the City where outdoor seating may be placed in the public right-of-way without unduly impeding pedestrian or vehicular traffic;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT:**

**SECTION 1.** Chapter 8.16, Sale of Food and Drink, of the *Takoma Park Code* is hereby amended by adding the following:

**8.16.090 Outdoor cafes on public sidewalks.**

A. The purpose of this section is to further the City’s efforts to increase the economic vitality of its business districts. The outdoor cafes will stimulate additional pedestrian traffic and provide a service that will complement the existing commercial uses within the district.

**B. Definitions.**

1. Food service facility is defined as a licensed facility such as a restaurant, coffee shop, café, food trucks, retail market or similar business in which food or drink is prepared for sale or for service on the premises or elsewhere, or any other operations where food regularly is served or provided for the public with or without charge.
2. Public right-of-way is defined as property owned by the City or over which the City has the right of access for the purposes of building and maintaining a street or sidewalk, curb

and gutter, storm sewers and underground utilities. A public right-of-way includes but is not limited to a public street, on-street parking area and sidewalk.

C. The use of public right-of-way for outdoor cafes shall be permitted subject to the following conditions:

1. The use of the public right-of-way for an outdoor café shall be permitted incidental to the operation of a food service facility located on private contiguous property and may extend beyond the width of the storefront of the food service facility with the written consent of the adjoining property owners within the extended café area. In the event the outdoor café area is not contiguous to the food service facility, it must be located within 25 feet of the storefront of the associated food service facility;
2. Execution of a lease agreement with the City to run concurrently with the outdoor café permit;
3. Compliance with all City, County, State and Federal laws and regulations; and
4. Compliance with any conditions imposed by the City in connection with the issuance of an outdoor café permit.

D. Permit requirements, permit fees, and denial, suspension or revocation of permits.

1. Food service facilities seeking to establish an outdoor dining area in the public right-of-way are required to obtain an outdoor café permit prior to the establishment of the dining area. Farmers markets and special event vendors are exempted from the requirements of this chapter.
2. Outdoor café permits are not transferrable. In the event of the transfer of ownership of the food service facility, the new owner must reapply for a permit.
3. The City may require temporary or permanent suspensions or modifications to a permit as necessary to perform repairs and maintenance in the right-of-way, facilitate crowds, or otherwise promote the public health, safety, and welfare of the community.
4. The City may suspend or revoke a permit for violations of this section, conditions of the permit, or other applicable City, county, state or federal law.

E. Regulations.

The City shall develop regulations for the implementation and enforcement of this section, which may include, but not be limited to, permit modification, renewal and revocation procedures, application fees, annual permit fees, calculation of annual fee increases, right-of-way lease terms and conditions, insurance and indemnification requirements, City approval of alcohol sales, City-imposed limitations on hours, additional permit criteria and standards, and prohibited activities.

F. Violations.

A violation of this section is a Class AA offense.

**Section 3.** This ordinance shall become effective immediately.

Adopted by the Council of the City of Takoma Park this 21st day of February, 2018 by roll-call vote as follows:

AYE: Stewart, Kovar, Dyballa, Kostiuk, Seamens, Smith, Schultz  
NAY: None  
ABSTAIN: None  
ABSENT: None

**EXPLANATORY NOTE**

Additions to the Code are shown by underlining. Deletions are shown by ~~striketrough~~.