Special Session

Agenda Item #	2
Meeting Date	June 17, 2013
Prepared By	Emily Cohen, Management Assistant Rosalind Grigsby, Community Development Coordinator
Approved By	Suzanne R. Ludlow Acting City Manager

Discussion Item	Second Reading Ordinance Repealing *Takoma Park Code*, Chapter 8.12, Peddlers, Canvassers and Transient Merchants and Adopting Chapter 8.12 Vendors Resolution Extending the Food Truck Pilot Program (this resolution will be considered only if the ordinance amending Ch. 8.12 is not adopted)
Background	The Council is asked to approve the second reading of an Ordinance repealing the City's current laws governing the operation of peddlers, canvassers and transient merchants in Takoma Park and adopting new laws governing vendors. The new law has been considered by the Council over several meetings with the first reading of the ordinance approved on June 3, 2013. As previously noted, the proposed amendment: 1. Clarifies terminology and establishes new definitions for the following vendor types: Door-to-Door Vendors, Fixed Location Vendors, and Roaming Vendors (Section 8.12.010); 2. Creates permitted locations allowing for the operation of Fixed Location Vendors such as food trucks on designated City property and right-of-way (Section 8.12.080); 3. Reduces the current permitting fee to $75 for Fixed Location Vendors (the current fee is $325) (Section 8.12.050). The ordinance adopted at first reading included a fee level of $50. Staff recommends this be increased slightly, to $75, to help cover the expenses associated with the food vendor reservation system. 4. Expands permitting requirements to include proof of liability insurance for Fixed Location Vendors selling on City property (Section 8.12.040) and a site plan for vendors operating on private property (Sections 8.12.040 and 8.12.100); 5. Eliminates the background check requirement for all vendors; and 6. Incorporates environmental regulations requiring vendors to recycle all waste products and prohibiting the use of Styrofoam or similar polystyrene containers and utensils (Section 8.12.090). A question was raised at the first reading of the ordinance on June 3 as to whether yard sales on church property would be exempted from the new vendor requirements. For second reading, the yard sale exemption was changed from "residential" properties to "noncommercial" properties, therefore expanding the

	exemption to nonprofits and faith-based institutions. Staff recommended that several other minor changes be made at second reading of the ordinance. These are denoted by redline and strikeout in the ordinance. On June 10, second reading of the ordinance was tabled to allow for further review of issues recently raised by members of the Council about the proposal to require vendors operating on City-owned property to carry liability insurance and the impact of the proposed site plan review process on vendors operating on privately owned property. Both the City Attorney's Office and LGIT, the City's insurance provider, have recommended that vendors operating on City-owned property be required to carry liability insurance for $1 million per incident. The City currently requires organizations under contract to carry similar liability insurance and to name the City as additionally insured. This requirement applies to artists creating work under the City's public art program as well as CDBG sub-recipients and organizations such as the Institute for Musical Traditions which rent the auditorium for performances. A review of current vendor permits found that at least one property owner requires the vendor on its site to carry similar liability insurance. Each of the food truck vendors currently operating under the parameters of the Pilot Program carry liability insurance. New site plan requirements for vendors operating on private property were incorporated into the ordinance in response to concerns expressed by Councilmembers regarding the operations of currently permitted vendors. These requirements would likely impact two of the three vendors when they renew their current permit. In the interim, they would be required to comply with the other provisions of the Code. Staff plans to work with these businesses to help them adapt to the new rules. If adopted, the proposed ordinance would become effective July 1, 2013. In the event the Council elects to delay further action on the ordinance, a resolution has been prepared authorizing, under the same terms and conditions of the current program, the extension of the Food Truck Pilot Program for a period of three months.
Policy	"To create and maintain a livable community that is vibrant, healthy, and safe for all of its residents." *City of Takoma Park Strategic Plan (FY2010-FY2015)*
Fiscal Impact	Potential change in permitting fee revenues
Attachments	• Ordinance Repealing *Takoma Park Code*, Chapter 8.12, Peddlers, Canvassers and Transient Merchants and Adopting Chapter 8.12 Vendors • Resolution Extending the Food Truck Pilot Program
Recommendation	Approve the second reading of the Ordinance

Introduced by: Councilmember Smith

First Reading: June 3, 2013
Second Reading:
Effective Date:

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 ~~residential~~ noncommercial property, of goods previously used by ~~a resident of~~ the ~~property~~seller. This also includes all similar sales activities such as "porch sales", "garage sales", “lawn sales”, "moving sales", and "community sales." ~~Such sales can be held no more than four times a year.~~

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 ~~A unique~~ Roaming Vendor Permit~~ is required for each vehicle conducting the vending activity, even if multiple vehicles are operated by one person or business entity~~.
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~~300,000 of coverage~~ per incident, naming the City as an additional insured.

8.12.050 Fees, duration, expiration, and renewal

A. A nonrefundable processing fee of $75~~50~~.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.

E. Stands, vehicles, trailers, carts, and other equipment used for food service by mobile food vendors at a fixed location must be removed from the location between the hours of 10 p.m. and 7 a.m.

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 ~~City Manager's action denying, revoking, or suspending~~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 ___ DAY OF _____, 2013, BY ROLL-CALL VOTE AS FOLLOWS:

AYE:
NAY:
ABSENT:
ABSTAIN:

Notes:

Additions made to the ordinance after first reading are shown by underlined red text.

Deletions are shown by ~~strike through~~.

Revisions to the ordinance since presented to the Council on June 10 are shown by highlighting.

REPEALED CHAPTER 8.12

~~**Chapter 8.12**~~
~~**PEDDLERS, CANVASSERS AND TRANSIENT MERCHANTS**~~

~~Sections:~~

~~Article 1. General Provisions~~

~~8.12.010 Definitions.~~
~~8.12.020 Exemptions.~~

~~Article 2. Solicitor's Permit~~

~~8.12.030 Required.~~
~~8.12.040 Application.~~

~~Article 3. License~~

~~8.12.050 Required.~~
~~8.12.060 Application.~~

~~Article 4. Permit/License Requirements~~

~~8.12.070 Background check.~~
~~8.12.080 Fees—Duration, and expiration—Renewal.~~
~~8.12.090 Identification badge.~~

~~Article 5. Permit/License Provisions and Procedures~~

~~8.12.100 Approval or disapproval of applications.~~
~~8.12.110 Issuance, content and transferability.~~
~~8.12.120 Denial.~~
~~8.12.130 Revocation or suspension.~~
~~8.12.140 Appeal of denial, revocation or suspension—Procedure.~~

~~Article 6. Restrictions and Requirements—Conduct~~

~~8.12.150 Exhibition of license—Sign—Records.~~
~~8.12.160 Vehicle maintenance—Identification displayed—Refuse containers.~~
~~8.12.170 Use of streets and sidewalks.~~
~~8.12.180 Hours of operation.~~
~~8.12.190 Exclusion by residents.~~
~~8.12.200 Enforcement.~~

8.12.210 Records of licenses and convictions.
8.12.220 Notice to police of canvassing activity.

Article 1. General Provisions

8.12.010 Definitions.

As used in this chapter:
"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:
1. 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; or
2. Distributing a handbill or flyer advertising a noncommercial event or service.

"Junk or secondhand dealer" means any person, firm or corporation, whether or not a resident or establishment within the City, who engages in the business of buying or selling or solicits for the purposes of buying, selling or obtaining any used material or thing customarily considered as a household item.

"Nonprofit organization" means any organization that is qualified as tax exempt by the Internal Revenue Service.

"Peddler" 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 sell a good or service. A "peddler" does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor."

"Permit/license holder" means an individual holding a permit or a person holding license issued under this article.

"Solicitor" 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:
1. Attempting to obtain a donation to a nonprofit organization, even if incidental to such purpose there is the sale of some good or service; or
2. Distributing a handbill or flyer advertising a commercial event, service or product.

"Transient merchant" means:
1. Any person, whether or not a resident of the City, who engages in a temporary business of selling and delivering goods, food, wares or merchandise within the City;

2. Any person who engages in a business of selling and delivering goods, food, wares, or merchandise within the City and, in furtherance of this purpose, hires, leases, uses or occupies any temporary building or structure, motor vehicle, trailer, tent, hotel room, lodging house, residential dwelling, street, alley or other place within the City for the exhibition and sale of goods, wares or merchandise, either privately or at public auction. (Ord. 2005-22 (part), 2005)

8.12.020 Exemptions.

A. The provisions of this article shall not apply to any of the following:

1. Any person who is upon the premises at the request or invitation of the owners or occupants thereof;

2. Wholesalers who sell goods to dealers in such goods;

3. Persons who take orders solely for the delivery of newspapers;

4. Acts of merchants or their employees in delivering goods:

a. In the regular course of business, or

b. To regular customers on established routes;

5. Any activity in a City park or public building when the activities at such places are under a permit issued by or to the Department of Recreation;

6. Any activity authorized by the City under any provision of the Code or City regulation.

B. Nothing in this article shall be held to prohibit any sale required by statute or by order of any court, nor to prevent any person from conducting a bona fide auction sale pursuant to law. (Ord. 2005-22 (part), 2005)

Article 2. Solicitor's Permit

8.12.030 Required.

A. Except as provided in subsection (B) of this section, all solicitors must obtain a solicitor's permit from the City Clerk.

B. No solicitor's permit is required for solicitors who are City residents and who are soliciting on behalf of a nonprofit organization or candidate for public office and are not involved in the promotion or sale of commercial goods or property on behalf of a for-profit business enterprise. (Ord. 2005-22 (part), 2005)

8.12.040 Application.

A. Applicants for a solicitor's permit shall file with the City Clerk, on forms provided by the City Clerk, a signed application giving the following information:

1. Name, local and permanent address, local and permanent telephone numbers, age, date of birth, race, weight, height, color of hair and eyes and other distinguishing physical characteristics of the applicant, if any;

2. Name and purpose of the cause for which the permit is sought;

3. Names and addresses of the organization, if any;

4. Period during which solicitation is to be carried on;

5. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty imposed therefor.

B. Applicants shall submit 2 prints of a recent photograph of the applicant, approximately 2" x 2", showing the head and shoulders of the applicant in a clear and distinguishing manner. (Ord. 2005-22 (part), 2005)

Article 3. License

8.12.050 Required.

No peddler, transient merchant, or junk or secondhand dealer shall engage in such business within the City without first obtaining a license in compliance with the provisions of this article. (Ord. 2005-22 (part), 2005)

8.12.060 Application.

A. Applicants for a license under this article shall file with the City Clerk a sworn application, in writing, on a form to be furnished by the City Clerk, which shall give the following information:

1. Name, local and permanent address, local and permanent telephone numbers, age, date of birth, race, weight, height, color of hair and eyes and other distinguishing physical characteristics of the applicant, if any;

2. In the case of transient merchants, the local address from which proposed sales will be made;

3. A brief description of the nature of the business and goods to be sold;

4. If employed, the name and address of the employer;

5. The length of time for which the right to do business is desired;

6. The source and supply of the goods or property proposed to be sold or orders taken for the sale thereof, where goods or products are located at the time the application is filed, and the proposed method of delivery;

7. If a vehicle is to be used in connection with the proposed activity, a description of the same, together with the license tag number;

8. The name of at least 2 permanent residents of Montgomery County who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, other available evidence of the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

9. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty imposed therefor;

10. The last counties, cities or towns, not exceeding 3, where the applicant carried on business immediately preceding the date of application and the addresses from which the business was conducted therein.

B. Applicants shall submit the following documents with their application:

1. 2 prints of a recent photograph of the applicant, approximately 2" x 2", showing the head and shoulders of the applicant in a clear and distinguishing manner;

2. Copies of any State and County permits necessary for the applicant to conduct the proposed activity;

3. If employed, credentials from the applicant's employer establishing the employment relationship. (Ord. 2005-22 (part), 2005)

Article 4. Permit/License Requirements

8.12.070 Background check.

Except as provided in Section 8.12.100(G), all permit and license applicants must obtain and submit a personal Criminal Justice Information System (CJIS) criminal background check report to the City Clerk as a supplement to the permit or license application. No application will be considered complete or filed until a CJIS criminal background check report is submitted by the applicant. The report must have been issued no earlier than 60 days before the application is submitted to the Clerk. (Ord. 2005-22 (part), 2005)

8.12.080 Fees—Duration, and expiration—Renewal.

A. A nonrefundable processing fee of $25.00 will be charged to each applicant at the time an application for a permit or license is filed with the City Clerk.

B. Every applicant for a license under this article shall pay a license fee of $300.00 a year or $175.00 for a half year. The annual fee shall be assessed for one year from the date of issuance, the half-year fee for 6 months from the date of issuance.

C. Permits will be issued for a period effective for 6 months from the date of issuance.

D. All permits and licenses issued under this article shall expire at 12:00 midnight either 6 months or one year from the date of issuance, as applicable.

E. Except as provided in Section 8.12.100(G), the same application procedures and requirements apply at the time an applicant seeks renewal of a permit or license. (Ord. 2005-22 (part), 2005)

8.12.090 Identification badge.

A. Every permit/license holder shall prominently display an identification badge issued by the City on his or her person at all times while engaged in activity that requires a license or permit.

B. Canvassers may apply for an identification badge by completing the procedures and paying the fee required for obtaining a solicitor's permit. An application for an identification card shall be approved or disapproved in accordance with the standards for approval or disapproval of a permit, and all provisions of this chapter regarding the suspension, revocation, and expiration of permits shall apply to identification badges.

C. All City-issued identification badges shall remain the property of the City and shall be surrendered to the City upon expiration, suspension or revocation.

D. The identification badge shall show the following:

1. Name and address of the permit/license holder and the entity he or she is representing, if any;

2. Dates of issuance and expiration of the permit or license;

3. One of the photographs submitted by the permit/license holder; and

4. A statement as to whether or not any commission, fee, wages or emoluments are to be expended or received in connection with the permit/license holder's activity within the City. (Ord. 2005-22 (part), 2005)

Article 5. Permit/License Provisions and Procedures

8.12.100 Approval or disapproval of applications.

A. Upon receipt by the City Clerk of a complete application for a permit or license, the Clerk immediately shall refer the application to the Chief Police Officer or designee, who shall review the application and background check report and institute an investigation of the background check report as he or she deems appropriate for the protection of the public safety.

B. The review of the applicant's application and background check report, and any investigation of his or her application, shall give due weight to any prior violations of City law, conviction for any crimes against person or property, conviction for trafficking in controlled dangerous substances, or judgments based upon fraud, deceit, or misrepresentation.

C. The City may refuse to issue a permit or license upon a finding that the applicant has provided inaccurate information on his or her application or withheld or falsified any information required to be submitted in order to obtain a permit or license.

D. If, as a result of the application, background check report, and investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief Police Officer shall endorse on such application his or her disapproval and his or her reasons for the same, and return said application to the City Clerk, who shall notify the applicant that the application is disapproved and that no license or permit will be issued.

E. If, as a result of the application, background check report and investigation, the applicant's character and business responsibility are found to be satisfactory, the Chief Police Officer shall endorse on the application his or her approval and return said application to the City Clerk, who shall, upon payment of the prescribed license fee when applicable, deliver to the applicant a permit or license.

F. The Chief Police Officer or designee shall endorse the application within 2 business days after the applicant has filed the application, including background check report required by Section 8.12.070, with the City Clerk. The City Clerk shall issue the permit, license, or identification card to the applicant or notify the applicant of the disapproval promptly upon receipt of the endorsement.

G. An applicant who has submitted a criminal background check report to the City Clerk in connection with a successful application for a license or permit within 2 years of the submission of his or her application shall not be required to submit a criminal background check report with his or her application. (Ord. 2005-22 (part), 2005)

8.12.110 Issuance, content and transferability.

A. The permit or license shall contain:

1. The signature of the City Clerk;
2. The name and address of the individual applicant or organization, accompanied by a listing of each applicant covered by the permit or license;
3. The class of permit or license issued;
4. The purpose and cause of the permit or kind of goods to be sold;
5. The amount of fees paid;
6. The date of issuance;
7. The expiration date;
8. The license plate number and other identifying description of any vehicle used in the licensed business, if applicable.

B. Each individual solicitor must secure a permit, and each individual peddler, transient merchant, or junk or secondhand dealer and their bona fide employee(s) must secure a personal license.

C. No license, permit, or identification card shall be used at any time by any person other than the one to whom it is issued.

D. The Clerk shall keep a permanent record of all permits, licenses, and identification cards issued. (Ord. 2005-22 (part), 2005)

8.12.120 Denial.

If an application for a permit or license under this chapter is disapproved, the City Clerk shall promptly notify the applicant, in writing, to that effect. The denial of a license or permit is subject to review by the City Manager as provided in Section 8.12.140. (Ord. 2005-22 (part), 2005)

8.12.130 Revocation or suspension.

A. Permits and licenses issued under this chapter may be revoked by the City Clerk for any of the following grounds:

1. Fraud, misrepresentation or incorrect statement contained in the application;
2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his or her business as solicitor, peddler, canvasser, transient merchant or junk or secondhand dealer;
3. Violation of any City, County, State, or Federal law;
4. Conviction of any crime;
5. Conducting the business of solicitor, peddler, canvasser, transient merchant, junk or secondhand dealer 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.

B. Permits and licenses issued under this chapter may be suspended during the period a permit or license holder is under investigation for any action identified in subsection (A) of this section.

C. If a permit or license under this chapter is revoked or suspended, the City Clerk shall promptly notify the permit/license holder in writing.

D. If a permit or license is suspended for any reason that proves to be unfounded, the permit or license may be extended for a period of time equal to the period of suspension.

E. No person whose permit or license has been revoked under the provisions of this section shall make further application for a permit or license within 6 months thereafter. (Ord. 2005-22 (part), 2005)

8.12.140 Appeal of denial, revocation or suspension—Procedure.

The procedure for the handling of appeals under this article shall be governed as follows:

A. Any person aggrieved by the action of the City Clerk denying, revoking, or suspending a permit or license shall have the right to appeal to the City Manager.

B. The appeal shall be made by filing with the City Clerk a written statement setting forth fully the grounds for the appeal within 14 days after receipt of notice of the action.

C. The City Manager shall consider the appeal and provide a final written decision to the applicant within 14 days after receipt of the appeal. (Ord. 2005-22 (part), 2005)

Article 6. Restrictions and Requirements—Conduct

8.12.150 Exhibition of license—Sign—Records.

A. Every license holder is required to exhibit his or her license certificate at the request of any citizen.

B. Each junk or secondhand dealer shall, in some manner, display a sign showing the firm name, type of business and location address in letters at least 2" in height and plainly legible on each side of any vehicle used.

C. Each junk or secondhand dealer transacting business within the City shall maintain all records of such and shall exhibit them upon demand to any police officer or to the City Manager. (Ord. 2005-22 (part), 2005)

8.12.160 Vehicle maintenance—Identification displayed—Refuse containers.

A. Any vehicle and everything pertaining thereto used by a licensed vendor shall at all times be maintained in a clean and orderly condition. No portion of the contents shall be deposited upon the street or other public place.

B. Every vehicle shall have the name of the vendor, the location where the vehicle is stored, when not in use, and the Takoma Park license number painted or applied on the vehicle or displayed on a detachable, professional quality sign of either magnetic or other durable and weatherproof material, such as metal or plastic, in letters at least 2" in height and plainly legible, affixed on each side of the vehicle on the front doors.

C. Vendors selling from stands or vehicles shall attach to their stand or vehicle the appropriate refuse receptacle(*s*) as required by the nature of the operation. The contents of each receptacle shall be removed daily by the person in charge of the stand or vehicle to which it is attached. (Ord. 2005-22 (part), 2005)

8.12.170 Use of streets and sidewalks.

No permit holder or licensee shall have an exclusive right to any location in the public streets or sidewalks, be permitted to stop and conduct operation within 50' of their vehicle or stand for more than 15 minutes within a single block during a 24-hour period or be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets or sidewalks. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether or not an area is so congested as to impede or inconvenience the public. (Ord. 2005-22 (part), 2005)

8.12.180 Hours of operation.

Canvassers, permit holders and licensees shall only canvass, solicit or conduct business between 9:00 a.m. and 9:00 p.m. each day. These hours of operation shall not apply to solicitations when the person solicited has agreed by previously arranged appointment for a time other than the prescribed hours. (Ord. 2005-22 (part), 2005)

8.12.190 Exclusion by residents.

Any resident of the City who wishes to exclude solicitors, peddlers, and 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: "solicitors prohibited," which shall prohibit peddlers, transient merchants, junk or secondhand dealers and solicitors, or "solicitors and canvassers prohibited," which shall also prohibit canvassers. Such sign shall be at least 4" long and 6" wide and the printing thereon shall be clear and legible. No solicitor, peddler, canvasser, transient merchant, or junk or secondhand dealer shall enter in or upon any premises, or attempt to enter in or upon any premises, where such sign prohibiting their entry is maintained. No person other than the person occupying such premises shall remove, injure or deface such sign. (Ord. 2005-22 (part), 2005)

8.12.200 Enforcement.

A. Any violation of this article is a Class C offense.

B. Police Officers and Code Enforcement Officers shall require any person seen conducting any activity for which a permit or license is required under this chapter who is not known by the officer to be duly permitted or licensed, to produce his or her permit or license and identification badge. The Police Department and Code Enforcement Office shall enforce the provisions of this chapter against any person found to be violating the same. (Ord. 2005-22 (part), 2005)

8.12.210 Records of licenses and convictions.

The Chief Police Officer or designee shall report to the City Clerk all violations of this chapter. The City Clerk shall maintain a record of each permit and license issued and record the reports of violations therewith. (Ord. 2005-22 (part), 2005)

8.12.220 Notice to police of canvassing activity.

All persons, before conducting canvassing activity that involves the solicitation of money, shall notify the Police Department of the dates they will be conducting such activity within the City, the name of the organization to benefit from the solicitation, the names of the individuals conducting the activity, and the license plate number and State of registration of all motor vehicles to be used in connection with the activity. (Ord. 2005-22 (part), 2005)

Introduced by: Councilmember

CITY OF TAKOMA PARK, MARYLAND
RESOLUTION 2013-

EXTENDING THE TERM OF THE FOOD TRUCK PILOT PROGRAM ESTABLISHED BY RESOLUTION 2012-42

WHEREAS, the City Council established the Takoma Junction Food Truck Pilot Program (Pilot Program) by Resolution 2012-42 on July 9, 2012 to allow for the programming of a variety of food trucks in the Junction that would improve the visibility of the area while encouraging community support of existing businesses; and

WHEREAS, given the success of the Pilot Program, the Council extended the program through February 28, 2013 and expanded operating hours by Resolution 2012-59 on November 5, 2012, and

WHEREAS, in the interests of encouraging the continued operation of food trucks in Takoma Park on a permanent basis, the Pilot Program was again extended through June 30, 2013 by Resolution 2013-8 on February 11, 2013 to allow for an amendment of the City Code; and

WHEREAS, the Council, having conducted a series of work sessions focused on proposed revisions to the City Code and approved the first reading of a proposed Ordinance on June 3, 2013, supports the continuation of the pilot program as it completes its review of proposed amendments prior to the second reading of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF TAKOMA PARK, MARYLAND authorizes the extension of the Takoma Junction Food Truck Pilot Program through September 30, 2013 with the same general terms and conditions as set forth in Resolution 2012-42 and amended by Resolution 2012-59.

Adopted this ____th day of _____, 2013.

Attest:

_____
Jessie Carpenter, CMC
City Clerk