Town of Dumfries
Council Meeting

Meeting Date: November 12, 2013

Agenda Item# XIV-A

AGENDA ITEM FORM

TYPE OF AGENDA ITEM:
- ☐ CONSENT AGENDA
- ☐ PRESENTATION
- ☑ ACTION ITEM
- ☐ TOWN MANAGER & STAFF COMMENTS
- ☐ PUBLIC HEARING
  - ☐ Duly Advertised

PURPOSE OF ITEM:
- ☐ INFORMATION ONLY
- ☐ DISCUSSION ONLY
- ☑ DISCUSSION AND/OR DECISION
  - ☐ Introduction ☐ Resolution
  - ☑ Ordinance ☐ Grant/MOU
  - ☐ By Motion ☐ Bylaws
  - ☐ Certificate

PRESENTER: Dan Taber **PRESENTER TITLE:** Town Manager

AGENDA ITEM:

Ordinance Adopting the Temporary Roadside Food Vendor Ordinance

BACKGROUND / SUMMARY:
This ordinance has been under consideration by Council and discussed previously at meetings of Town Council held on 4/16/13, 5/7/13, 6/4/13, and 7/9/13 and 7/16, 2013. At the 7/9/13 Town Council meeting various concerns were raised; and subsequent revisions were brought back to Council for the 7/16/2013 meeting. Revisions were made again at the September 3, 2013 meeting. Council held a public hearing and introduced the ordinance on October 1, 2013. This is before Council for adoption.

ATTACHMENTS:
Ordinance for Temporary Roadside Food Vendor Ordinance

REQUESTED ACTION: ☐ NO ACTION REQUESTED

Vote to Adopt the Ordinance Adding Temporary Roadside Food Vendors

FOR MORE INFORMATION, CONTACT: Name:

Phone#: E-mail:

FOR USE DURING MEETING **VOTE:** ☐ PASSED ☐ NOT PASSED

Y	N		Y	N		Y	N	
☐	☐	Brewer	☐	☐	Foreman	☐	☐	Forrester
☐	☐	Reynolds	☐	☐	Toney	☐	☐	Washington
☐	☐	Wood						

AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL HELD ON TUESDAY, NOVEMBER 12, 2013, IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA: ON A MOTION DULY MADE BY _____, AND SECONDED BY _____, THE FOLLOWING ORDINANCE WAS ADOPTED BY THE FOLLOWING VOTE:

Charles C. Brewer, _____;
Gerald M. Foreman, II, _____;
Kristin W. Forrester, _____;
Helen D. Reynolds, _____;
Willie J. Toney, _____;
Gwen P. Washington, _____;
Derrick R. Wood, _____;

AMEND THE CODE OF THE TOWN OF DUMFRIES, VIRGINIA, AS AMENDED, BY AMENDING CHAPTER 42, BY AMENDING THE NAME OF THE CHAPTER TO PEDDLERS, SOLICITERS AND ROADSIDE FOOD VENDORS; AND ADDING ARTICLE III, TEMPORARY ROADSIDE FOOD VENDORS.

BE IT ORDAINED by the Council of the Town of Dumfries, Virginia, in a regular meeting this 12th day of November, 2013:

1. That the Code of Ordinances, Town of Dumfries, Virginia, as amended, is further amended by deleting the title to Chapter 42 and amending/adding to the title of Chapter 42 and is reenacted as follows:

~~**Chapter 42 - PEDDLERS AND SOLICITORS**~~

Chapter 42 PEDDLERS, SOLICITORS and TEMPORARY ROADSIDE FOOD VENDORS

2. That the Code of Ordinances, Town of Dumfries, Virginia as amended is further amended by adding:

Article III. Temporary Roadside Food Vendors

Sec. 42-30. Purpose of Article; findings of Town council.

The purpose of this Article is to reasonably control the activities of temporary roadside food vendors for the health, safety and well-being of the people residing in the Town and the general public. The Town council finds that solicitation of business by temporary roadside food vendors may on private property interfere with property owners and residents' right to privacy, peaceable and quiet enjoyment of their property.. The Town council also is committed to leaving open ample opportunities for legitimate temporary roadside food vendors, and prohibits any unlawful discrimination in the application of this chapter.

Sec. 42-31. Sunset Provision.

This Article shall repeal automatically June 30, 2018.

Sec. 42-32. Definitions.

For the purpose of this Article the following alphabetical listing of terms and their definitions shall apply. Additional definitions specific to their application in a section may be found elsewhere in the Code of Ordinances for the Town of Dumfries.

(1) Roadside food vendor-- shall include a vendor who sells food from a lunch wagon, truck, push cart, or vehicle from which food is sold on private property with legal access to a public right of way.

(2) Temporary – for the purpose of this Chapter, temporary shall mean no more than 12 hours a day, six days a week. Overnight parking of the food vending unit(s), and employee parking is prohibited. Signs, trash, trash receptacles, debris or any other indicia of the vending business are prohibited to remain overnight and shall be removed from the permitted site(s) each day.

Sec. 42-33. Mobile food vendors operating as a temporary use shall be regulated pursuant to Chapter 70, Section 70-22 and 70-23.

Sec. 42- 34. Temporary Roadside Vendor regulations.

Temporary roadside food vendors not operating pursuant to Chapter 70, Sections 70-22 – 70-23 may be approved in any district zoned B1, B2, FBO1 or M1 by the zoning administrator through the issuance of an annual permit when in the interest of protecting the public health, safety and welfare the following conditions are met:

(1) Written approval of the owner of the property shall be obtained in advance of obtaining any permits under this Article. This approval shall identify the property address, the property owner's: a) name; b) owner's mailing address; c) owner's telephone number; d) owner's acknowledgment of the proposed vending activity; and e) dates and times the food vending is to occur. A copy of this written approval must be in the possession of the vendor when operating pursuant to his/her roadside food vendor permit.

(2) No restrooms shall be provided for customers or the general public.

(3) Vendors are limited to no more than five employees.

(4) No structures of any kind shall be allowed.

(5) Allowable hours of operation for food vending shall be dawn to dusk.

(6) Vendors are not permitted on publicly-owned property or public right-of-ways, except as specifically permitted by other Town-sponsored events Vendors may not be permitted to vend at their permitted locations(s) during Town-sponsored events. Notice of the dates and times of Town-sponsored events will be included with the annual permit.

(7) Adequate and safe ingress and egress, such that the normal traffic pattern shall not be disrupted, shall be provided as determined by the chief of police or his designee.

(8) Adequate parking for the vendor, employees and customers on site is required. A minimum of four parking spaces shall be provided for customers on-site. Parking or stopping in public rights-of-way is prohibited.

(9) A schematic site plan diagramming the area of operation, parking, placement of signs, and trash receptacles shall be furnished to and approved by the zoning administrator prior to issuance of a permit.

(11) Signage shall not exceed 20 square feet in total area. Free standing signs are limited to sandwich board type signs no higher than four (4) feet in height.

(12) A bond, cash escrow, or other suitable guarantee payable to the Town in the amount of $1500.00 shall be provided to insure that conditions of the permit and this ordinance will be met. Such guarantee in the amount of $1500.00 for each permitted vending location shall be required. Repeated violations of the conditions of the permit shall result in the forfeiture of the bond, payable to the Town as stated in subparagraph (16) below.

(13) Evidence of business liability insurance issued by a company licensed to do business in the Commonwealth of Virginia with coverage for claims of damage to property and bodily injury, including death, which may arise from the vending operations with a combined single limit of liability of not less than one hundred thousand dollars ($1,000,000.00) per occurrence shall be furnished to the zoning administrator prior to issuance of a permit. Said policy must include an endorsement naming the Town as an additional insured and provide the Town with at least thirty (30) days' prior written notice before any cancellation or termination.

(14) No seating for customers shall be provided. Only carry-out food will be permitted.

(15) Removal of all freestanding signs, trash, or debris from the site and the immediate vicinity, upon termination of the activity shall be guaranteed by the vendor in writing and accomplished daily. Should trash, debris or signs remain overnight, the applicant will be

subject to a verbal and a written warning (as confirmation of the verbal warning). Any subsequent violation shall result in revocation of the permit, meaning that the permit is void. The Applicant will be subject to enforcement of this Article pursuant to the terms of this Article and any other applicable Town codes. Vendors whose permit has been revoked shall be ineligible to apply for and obtain any additional (new or renewal) permit for a period of 12 months after the revocation.

(16) The bond or other guarantee, required by subsection (12) of this section, shall be forfeited to the Town if the site is not adequately cleared of all trash, debris, and signs daily, the activity continues or remains on the site after expiration of the permit, or if there are violations of this section or the conditions of the permit. (but nothing in this forfeiture provision shall limit the city's ability to enforce this section in any manner provided by law). All other applicable laws will be enforced.

(17) No more than two such permits shall be issued for the same property lot or GPIN at any time. It is expressly understood that every location may not be suitable for one or two roadside food vendors.

(18) No permit shall be issued unless the vendor has received and furnished evidence of a valid permit or certification from the Virginia Department of Health to prepare (if preparation or cooking is involved) and/or sell food.

(19) Vendors shall: (a) pay an annual permit fee of $250.00 and; (b) be required to pay Meals Tax pursuant to Article V of Section 58 of the Dumfries Town Code as amended from time to time.

Sec. 42-35. Enforcement.

In addition to forfeiting the bond referenced in Sections 42.34 (12) and (16) above, vendors who violate the conditions of their permit or any provisions of this Chapter shall be guilty of a Class IV misdemeanor, punishable by a fine of $250.00. Each day that a violation of this Article or the conditions of permit conditions shall continue shall constitute a separate offense.

This ordinance shall become effective on November 12, 2013.

BY ORDER OF COUNCIL

_____
Gerald M. Foreman, Mayor

ATTEST:

_____
Dawn Hobgood, Town Clerk