

DRAFT 4/17/2013

ORDINANCE #O-2013-____

Introduction _____
Enacted _____
Effective _____

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; ARTICLE I BY ADDING SECTION 1-10, RELATING TO THE PURPOSE OF THE CHAPTER; ADDING ARTICLE III, ROADSIDE FOOD VENDORS.

BE IT ORDAINED by the Council of the Town of Dumfries, Virginia, meeting in _____ session this ___ day of _____, 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 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 and mobile food vendors for the safety and well-being of the people residing in the Town. The Town council finds that solicitation of business by roadside food vendors may on private property interfere with residents' right to privacy and quiet. The Town council also is committed to leaving open ample opportunities for legitimate roadside food vendors, and prohibits any unlawful discrimination in the in the application of this chapter.

42-31 – Definitions.

For the purpose of this chapter the following alphabetical listing of terms and their definitions shall apply. Additional definitions specific to their application in a section may be found in sections c-----.

Comment [TA1]: Cross reference other code sections, either in definitions, zoning ordinance, business taxes, etc. --

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- (1) Roadside food vendor-- shall include 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 -- shall mean no more than 12 hours a day, six days a week for a period of 4 (or 5 or 6 or??) consecutive months in any calendar year.

Comment [TA2]: Up for discussion

42-32. Mobile food vendors operating as a temporary use shall be regulated pursuant to Chapter 70, Section 70-22 and 70-23.

Comment [TA3]: These are the event vendors for festivals etc. NOT vendors that set up daily for several days etc.

42-33. 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 a 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, owner's name, owner's mailing address, owner's telephone number, owner's acknowledgment of proposed activity, and 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) Adequate sanitary facilities shall be provided at the site, and shall be approved by the Prince William Health Department. No restrooms shall be provided customers or the general public.
- (3) Roadside vendors are limited to one employee.
- (4) No structures of any kind shall be allowed.
- (5) Allowable hours of operation for food vending shall be dawn to dusk.
- (6) Roadside vendors are not permitted on publicly-owned property or public rights of way.

Comment [TA4]: Consistent with a maximum of 12 hours of operation in any 24 hour period

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- (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 activity intended, but no less than four parking spaces, shall be provided 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 must be furnished and approved by the zoning administrator.
- (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 as the in the amount of \$1500.00 shall be provided to insure that conditions of the permit and this will be met.
- (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 (\$100,000.00) per occurrence. Said policy must include an endorsement naming the Town as an additional insured and providing 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 in writing and accomplished daily. Should trash, debris or signs remain overnight, the applicant will be subject to a verbal or written warning and subsequent violations will result in revocation of the permit.
- (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, the activity continues or remains on the site after expiration of the permit.

Comment [TA5]: May be less but more is not recommended. The parking may be required to be signed for customer use only but will depend on the specifics of each site. If it is required to be signed, it will be included in the schematic site plan referred to in sub-paragraph 9.

Comment [TA6]: Bathroom may also be included here, if a portable bathroom is required by health department

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or violations of this section or the conditions of the permit are established (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.

Comment [TA7]: Noise ordinance, for example. We do still have some residential nonconforming uses in commercial districts.

(17) No more than two such permits shall be issued for the same property lot or GPIN during a calendar year.

Comment [TA8]: Up for discussion but want to check to make sure that this prevents numerous vendors on the same property, if council wants to avoid a roadside food vendor "city"

(18) No permit shall be issued less than 30 days from the date of expiration of a previous permit for a parcel.

Comment [TA9]: Up for discussion

(19) 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.

(20) Roadside food vendors shall pay a business license/ permit fee of \$250.00 and shall be subject to the Meals Tax in Article V of Section 58 of the Town Code as amended from time to time.

Comment [TA10]: Crs research whether or not we want to go bpol or just a license fee plus 4% meals tax based on receipts. This at least is consistent with what bricks and mortar vendors have to pay . . . but vendor has no overhead unlike a bricks/mortar establishment, hence the upfront fee of \$250 in addition to meals tax. May want to go with a flat fee of some significance and not be concerned with receipts. Suggest \$1500 can be more or less depending on the time allowed for vending (number of days/months etc. during the year)

Sec. 42-34 Enforcement:

Violations of any of the permit conditions or any provisions of this Article shall be subject to civil penalties of XXXX or if convicted, be guilty of a class IV misdemeanor. Each day that any violation of this article of the permit conditions shall continue shall constitute a separate offense.

Comment [TA11]: civil penalties are an option only if this is ultimately adopted under the Zoning Ordinance. Remember to include a changes to the fee schedule for the fees that council approves.

BY ORDER OF COUNCIL

Gerald M. Foreman, Mayor
On Behalf of the Town Council of
Dumfries, Virginia

ATTEST:

Dawn Hobgood, Town Clerk

MOTION:

Date: _____

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SECOND:

_____ Meeting
Ord. No. _____

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

CERTIFIED COPY _____

Dawn Hobgood, Town Clerk