

**Chapter 90**

**PEDDLING AND SOLICITING**

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[HISTORY: Adopted by the Mayor and Council of the City of Hyattsville 12-1-69. Amendments noted where applicable.]

GENERAL REFERENCES

- Municipal infractions - See Ch. 20.
- Streets and sidewalks - See Ch. 105.
- Vehicles and traffic - See Ch. 114.

**§ 90-1. Definitions. [Amended 09-15-08 by HO-2008-08]**

When used in this Chapter, the following words, terms, and phrases, and their derivations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

A. Conveyance includes any public or privately owned vehicle, method or means of transporting people, bicycles, motorized or non-motorized vehicle, handcart, pushcart, lunch wagon or any other device or thing, whether or not mounted on wheels.

B. Department means the City Department of Code Enforcement or any of its officials, officers, or employees.

C. Goods, wares, merchandise shall include but not be limited to fruits, vegetables, farm products or provisions, dairy products, fish, game, poultry, meat, plants, flowers, appliances, wearing apparel, jewelry, ornaments, art work, cosmetics and beauty aids, health products, medicines, household needs or furnishings, food of any kind, whether or not for immediate consumption, confections or drinks.

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D. Motor vehicle means any vehicle used for displaying, storing, or transporting articles for sale by a vendor and which is required to be licensed and registered by the Department of Motor Vehicles of any state.

E. Public space includes all City-owned parks and City-owned property.

F. Public way means all areas legally open to public use such as public space, public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the areas surrounding and immediately adjacent to public buildings.

G. Pushcart means any wheeled vehicle approved by the Department of Code Enforcement in accordance with this Chapter, designed for carrying property and for being pushed by a person without the assistance of a motor or motor vehicle.

H. Sidewalk means all that area legally open to public use as a pedestrian public way between the curb line and the legal building line of the abutting property.

I. Special event means any occasion including but not limited to fairs, shows, exhibitions, city-wide celebrations, and festivals taking place within a specifically defined area of the City for a period of time not to exceed seven (7) days.

J. Stand means any showcase, table, bench, rack, handcart, pushcart, stall or any other fixture or device that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any food, beverages, goods, wares or merchandise upon a sidewalk.

K. Street means all that area legally open to public use as public streets, and sidewalks, roadways, highways, parkways, alleys and any other public way.

L. Vendor means any person, traveling by foot, wagon, vehicle or any other type of conveyance from street to street carrying, conveying, or transporting goods, wares or merchandise and offering and exposing them for sale, or making sales and delivering articles to purchasers; or who, without traveling from place to place, exhibits, displays, sells or offers for sale such products from a wagon, handcart, pushcart, motor vehicle, conveyance or from his person while on the public ways of the City. A “vendor” also includes any street vendor, hawker, huckster, itinerant merchant or transient vendor. This definition does not include a door-to-door peddler or solicitor.

M. Vending is doing any act as a vendor.

N. Vehicle means every device in, upon, or by which a person or property may be transported or drawn upon a street or sidewalk, including, but not limited to, devices moved by human power.

### **§90-2. License Required. [Amended 09-15-08 by hO-2008-08]**

It shall be unlawful for any person to engage in vending unless the person has first obtained a license from the Department of Code Enforcement. All licenses shall be issued according to regulations established by the Department.

**§90-3. Application for License. [Amended 09-15-08 by HO-2008-08]**

A. The application for a vending license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

1. The applicant's full name, current address, telephone number and proof of identity, issued by the State of Maryland, or other recognized government;
2. A brief description of the nature, character and quality of goods, wares or merchandise to be offered for sale;
3. The specific location, if any, in which the vendor intends to conduct business;
4. If the applicant is employed by another, the name and address of the person, firm, association, organization, company or corporation;
5. If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle identification number and license number;
6. A complete listing of any other licenses or permits issued to the applicant by the City within the five (5) years immediately preceding the date of the application.

B. Food and Beverage Vendors.

1. Unless specifically allowed by the City for a special event, no license for food and/or beverage vendors shall be issued except for pre-packaged, pre-prepared food stuffs, soft serve ice cream/frozen yogurt or shaved ice or other frozen novelties. Food that needs to be prepared on or near the vending vehicle, whether by heating, mixing or any other means of cooking or preparation shall not be licensed or allowed except pursuant to this subsection.
2. Any application for a vending license to engage in the sale of food or beverages shall also be referred to the County and State Health Department for approval and issuance of a certificate of health inspection [or health permit] in addition to the regular vending license. The applicant's equipment shall be subject to inspections at the time of application and at periodic intervals thereafter. The City will not issue or renew a vending license until all required County or State licenses or permits have been issued and evidence of such, to the reasonable satisfaction of the department, has been demonstrated.

**§90-4. Issuance of License. [Amended 09-15-08 by HO-2008-08]**

A. The applicant shall be notified in writing by the Department of the City's decision to issue or deny the vending license not later than thirty (30) days after the applicant has filed a completed application with the Department. The Department can add such reasonable conditions or restrictions to the license as reasonably necessary to protect the public safety and the purposes of this Chapter. Any applicant for a license to sell food and beverages as a vendor can only be issued after the applicant receives the approval of the applicable state and/or county departments or agencies.

B. Each license shall show the name and address of the licensee, the type of license issued, the kind of goods to be sold, the amount of the license fee, the date of issuance, the license number, an identifying description of any vehicle or conveyance used by the licensee plus, where applicable, the motor vehicle identification number and a copy of any state issued photo identification. Each license shall also show the expiration date of the license and the vendor's permit number which is issued by the City and any conditions or restrictions.

C. All licenses, permits and/or identification badges issued under this Section are valid for one (1) year unless suspended or revoked and shall be both non-assignable and non-transferable

**§90-5. Special Events. [Amended 09-15-08 by HO-2008-08]**

Any vendor wishing to conduct business at a special event shall apply to the Department of Code Enforcement for a temporary vending permit. Application for such a permit must be made at least five (5) days prior to the beginning of the event for which the permit is sought. The permit shall be valid only for the duration of the special event. Fees for such permit shall be as specified in Section 90-6 of this Chapter. Any vendor to whom a temporary permit is granted shall be subject to the same operating regulations as all other vendors, except where otherwise specified. Vending at special events without a temporary vending permit is prohibited.

**§90-6. License Fees. [Added 09-15-08 by HO-2008-08]**

Any vendor granted a vending license under this Chapter shall pay an annual license fee of fifty dollars (\$50) or such other fee as set by the City Budget Ordinance. Any vendor granted a temporary vending permit for special events shall pay a fee as set by the City.

**§90-7. Display of Identification Badges and Other Permits. [Added 09-15-08 by HO-2008-08]**

A. Any license or permit issued by the Department shall be carried with the licensee whenever he/she is engaged in vending. Certificates of health inspection shall also be properly and conspicuously displayed at all times during the operation of the vending business.

B. A certificate of health inspection shall be deemed to be properly displayed when attached to the vending pushcart, vehicle, stand or other conveyance, and clearly visible to the public and law enforcement officials.

**§90-8. Notification of Name or Address Change. [Added 09-15-08 by HO-2008-08]**

All vendors shall assure that a current and correct name, residence address and mailing address are on file with the Department of Code Enforcement. Whenever either the name or address provided by a licensed vendor on his application for a vending license changes, the licensee shall notify the Department in writing within fifteen (15) days of such change and provide the same with the name change or address change.

**§90-9. Exemptions. [Added 09-15-08 by HO-2008-08]**

The provisions of this Chapter do not apply to:

- A. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;
- B. The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paperbound books; or
- C. The distribution of free samples of goods, wares and merchandise by any individual from his person.

**§90-10. Claims of Exemption. [Added 09-15-08 by HO-2008-08]**

Any person claiming to be legally exempt from the regulations set forth in this Chapter, or from the payment of a license fee, shall cite to the Department the statute or other legal authority under which exemption is claimed and shall present to the Department proof of qualification for such exemption.

**§90-11. Hours of Operation. [Added 09-15-08 by HO-2008-08]**

Unless the license specifically provides otherwise, vendors shall be allowed to engage in the business of vending only between the hours of 9:00 a.m. and 8:00 p.m. for no more than fifteen (15) minutes at a single stop after which the vendor must move the vending station or conveyance and other related items a minimum of 1,000 feet from the previous location. A vendor may not return to within one thousand feet (1,000') of a previous location for twenty four (24) hours. No vending station, conveyance or other items related to the operation of a vending business shall be located on any city sidewalk or other public way during non-vending hours.

**§90-12. Littering and Trash Removal. [Added 09-15-08 by HO-2008-08]**

- A. Vendors shall keep the sidewalks, roadways and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their businesses. All trash or debris accumulating within twenty five (25) feet of any vending stand shall be collected by the vendor and deposited in a trash container.
- B. Persons engaged in food vending shall affix to their vending station, vehicle, pushcart or other conveyance a receptacle for litter that shall be maintained and emptied regularly and marked as being for litter.

**§90-13. Vending Restrictions. [Added 09-15-08 by HO-2008-08]**

Absent an explicit authorization by the City for a special event or circumstance, no vendor shall be permitted to operate:

- A. On any public space, within twenty five (25) feet of any street, intersection or pedestrian crosswalk.

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- B. Within twenty five (25) feet of any, loading zone or bus stop, intersection or pedestrian crosswalk.
- C. Within two hundred (200) feet of another vending location assigned to another vendor on a public sidewalk.
- D. In any area within one hundred (100) feet of a building entrance or exit or, in the case of a hotel or motel, within two hundred fifty (250) feet of building entrances or exits.
- E. On the median strip of a divided roadway.
- F. Within fifty (50) feet of display windows of fixed location businesses.
- G. Any area within one thousand (1,000) feet of a hospital, college, university, elementary school, middle school or high school.
- H. Within twenty five (25) feet of any fire hydrant or fire escape.
- I. Within twenty five (25) feet of any parking space or access ramp designated for persons with disabilities.

### **§90-14. Prohibited Conduct. [Added 09-15-08 by HO-2008-08]**

No person engaged in the business of vending under this Chapter shall do any of the following:

- A. Obstruct pedestrian or motor vehicle traffic flow, except for no more than two (2) minutes to load and unload vending stations and/or vending merchandise.
- B. Obstruct traffic signals or regulatory signs.
- C. Stop, stand or park any vehicle, pushcart or conveyance upon any street for the purpose of selling during the hours when parking, stopping and standing have been prohibited by signs or curb markings.
- D. Leave any conveyance unattended at any time or store, park, or leave such conveyance in a public space overnight.
- E. Use a handcart or pushcart whose dimensions exceed six feet (6') in width, six feet (6') feet in length, and five feet (5') in height.
- F. Use any stand or other fixed-location conveyance whose dimensions exceed six feet (6') feet in width, six feet (6') feet in length, and three feet (3') feet in height.
- G. Use any conveyance that when fully loaded with merchandise, cannot be easily moved and maintained under control by the licensee, his employee, or an attendant.
- H. Sell any goods, wares or merchandise on public space unless the location has been or shall be hereafter so designated by the City Council for vending.

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I. Sound any device that produces a loud and raucous noise or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention, or otherwise violate the City's noise ordinance or the Transportation Article of the Maryland Code §22-401 and 22-401.1, as amended.

J. Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

K. Fail to obey the lawful order of the Department, or a police officer.

L. Operate in violation of the terms and conditions of the City permit or in violation of the vending restrictions above.

M. Operate in violation of the hours and times outlined in §90-11 above.

### **§90-15. Penalties. [Added 09-15-08 by HO-2008-08]**

Violation of this Chapter shall be a municipal infraction. The penalty for violating a provision of this Chapter or any other applicable section of the City Code shall be a fine not exceeding two hundred fifty dollars (\$250.) for a first offense together with revocation or suspension of the vendor's license for a time period not to exceed ninety (90) days for such first offense. Subsequent violations shall have a fine not exceeding five hundred dollars (\$500) with revocation or suspension of the vendor's license for a time period not to exceed 120 days.

### **§90-16. Suspension and Revocation of License. [Added 09-15-08 by HO-2008-08]**

A. In addition to the penalties contained above, any license issued under this Chapter may be suspended or revoked for any of the following reasons:

1. Fraud, misrepresentation or knowingly false statement contained in the application for the license;
2. Fraud, misrepresentation or knowingly false statement in the course of carrying on the business of vending;
3. Conducting the business of vending in any manner contrary to the conditions of the license or to a direct order by the Department or the police;
4. Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners; or
5. Cancellation or suspension of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations or cancellation or suspension of a required County or State license or permit.

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B. The Department shall provide written notice of the suspension or revocation in a brief statement setting forth the complaint, the grounds for suspension or revocation, and notifying the licensee or permittee of his right to appeal. Such notice shall be mailed to the address shown on the license holder's application by certified mail, return receipt requested.

C. If the City revokes a vending license or permit, the fee already paid for the license or permit shall be forfeited. A person whose license or permit has been revoked under this Section may not apply for a new license for a period of one (1) year from the date that the revocation took effect.

### **§90-17. Appeals. [Added 09-15-08 by HO-2008-08]**

A. If the Department denies the issuance of a license or permit, suspends or revokes a license or permit, or orders the cessation of any part of the business operation conducted under the license or permit, the aggrieved party may appeal the Department's decision to the City Administrator pursuant to Section 68-5 of this Chapter. The City Administrator shall either hear the appeal or appoint the Hearing Officer to hear the appeal.

B. The filing of an appeal ordinarily stays the action of the Department in suspending or revoking a license or permit or any part of the business operation being conducted under such license or permit until the Hearing Officer makes a final decision. However if the Department or Hearing Officer determines that continued operation of the vending business constitutes an imminent and serious threat to the public health or safety, he/she may order that the appeal does not stay the suspension or revocation, and shall take or cause to be taken such action as is necessary to immediately enforce the suspension, revocation or order.

### **§90-18. Renewals. [Added 09-15-08 by HO-2008-08]**

A vending license may be renewed, provided an application for renewal and license fees are received by the City no later than the expiration date of the current license. Any application received after that date shall be processed as a new application. The Department shall review each application for renewal, and upon determining that the applicant is in full compliance with the provisions of this Chapter and all applicable City, County and State Codes and Regulations, shall issue a new license.

### **§90-19. Construction. [Added 09-15-08 by HO-2008-08]**

A. No part of this Chapter or the Chapter itself shall be construed to be an amplification or derogation of the rights or responsibilities of abutting property owners. Any remedies, rights or obligations provided to such property owners or their successors in interest under the law of real property or the laws of the State of shall be in addition to the remedies, rights, obligations or penalties provided hereunder.

B. If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining, portions of this Chapter. The City Council declares that it would have adopted this Chapter and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.