



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of April 20, 2013

DATE: April 10, 2013

SUBJECT: Amendments to Chapter 30 (Peddlers, Vendors and Canvassers) of the Arlington County Code to: refine the language for exemptions; extend the permitted time for on-street vending from sixty (60) minutes to the lesser of two (2) hours or the lawful time limit prescribed for the respective parking meter zone; explain the regulation of the permitted time; and allow the County Manager greater flexibility in establishing on-street vending zones.

C. M. RECOMMENDATION:

Adopt the proposed ordinance, shown as Attachment A, to amend, reenact, and recodify Chapter 30 (Peddlers, Vendors and Canvassers) of the Arlington County Code, to refine the language for exemptions; extend the permitted time for on-street vending from sixty (60) minutes to the lesser of two (2) hours or the lawful time limit prescribed for the respective parking meter zone; explain the regulation of the permitted time; and allow the County Manager greater flexibility in establishing on-street vending zones.

ISSUES: This is an amendment to address one element, on-street vending, of Chapter 30 (Peddlers, Vendors and Canvassers). This is just the first and initial step in addressing concerns raised by numerous stakeholders about vending in Arlington County.

SUMMARY: This is a request for the County Board to adopt amendments to Chapter 30. Currently, the intent of the ordinance is to allow a vendor to vend from an otherwise permissible location on a County street for not more than one hour. However, the current language and the construct of the ordinance do not specifically convey the intent nor does the ordinance provide adequate specificity to allow consistent enforcement of the ordinance. The proposed ordinance, envisioned as an interim update to Chapter 30, will address some of the concerns that exist today. A more thorough analysis of the public realm and the management of uses within that space, and continued conversations with numerous stakeholders, will result in comprehensive updates to Chapter 30.

Therefore, to ensure that there is some level of regulatory oversight of vending within the public realm, staff recommends that the County Board adopt the proposed ordinance attached to this report (Attachment A).

County Manager:

BMD/GA

County Attorney:

GA

BRC

19.

Staff: Jill Griffin, AED

BACKGROUND: The most recent amendments to Chapter 30 occurred in July 2008. The amendments entailed the following changes:

- Permitted vending from kiosks;
- Increased the time for mobile vendors from five (5) minutes to 60 minutes and eliminated the need for a customer to stop the vendor for a sale;
- Excluded persons who are legally participating in open-air markets or farmers markets governed by the Zoning Ordinance from vending license requirements; and
- Included a traffic-engineering study as part of the County Manager’s review if a street vending zone is created.

At the time, the 55-minute increase (from five minutes to 60 minutes) to the on-street vending limit was considered a significant change. In fact, the County Board opted to keep the five (5) minute vending limit within 100 feet of public schools during lunchtime hours.

Since those changes in 2008, there has been continued growth in vendors – mobile food trucks, carts and tables have increased in populated areas of Arlington. Social media has assisted with marketing for vendors, and customers have flocked to them. Today, Arlington has approximately 100 licensed mobile food vendors. The increased popularity of the mobile food vendors has raised questions about the regulations, including the amount of time permitted for vending, appropriate locations for vending, and the overall enforcement of Chapter 30.

DISCUSSION: Chapter 30’s current language has made it difficult for vendors, does not accommodate customers appropriately, and creates an enforcement challenge. Enforcement is time consuming and the ordinance does not provide clear-cut specificity. Additionally, a thorough reading of the ordinance highlighted an issue in which the construct of the language in Section 30-9 (highlighted below) allows for a departure from the original intent of a time limitation for vending to a permissive allowance of vending anywhere, with no time limitation, so long as the vending occurs between 7:00 a.m. and 8:00 p.m.

§ 30-9. Same--Vending from Vehicles.

It shall be unlawful for peddlers, vendors, or canvassers or any other person to park or stop a vehicle on or alongside the roads, highways and streets of Arlington County for the purpose of selling, soliciting the sale of, displaying or offering for sale any goods, wares or other merchandise in or from the vehicles **except under the following conditions:**

- A. The vehicle is parked or stopped only for the purpose of making house to house sales; **or**
- B. The vehicle is stopped to make sales to persons, in which case the vehicle must remain stopped for no longer than five (5) minutes for vehicles stopped within one hundred (100) feet of any public school between the hours of 11:00 a.m. and 2:00 p.m. on days the school is open for student instruction, and no longer than sixty (60) minutes for all other vehicles, and must stop only in a space where motor vehicle parking is permitted pursuant to Chapter 14.2 of this Code; **or**
- C. The vehicle is stopped in an area that the County Manager has designated as temporary parking areas for the Arlington County Farmer's Market adjacent to land zoned so as to permit a farmer's market, provided that no parking spaces may be designated for this purpose for more than twenty (20) hours in any week;

D. The vehicle is stopped in an area designated by the County Manager as a street vending zone pursuant to § 30-10 herein. No vehicle parked in a street vending zone may exceed eighteen (18) feet in length, seven (7) feet in width and ten (10) feet in height, excluding umbrellas; **or**

E. Sales are made between the hours of 7:00 a.m. and 8:00 p.m.

(Ord. No. 85-39, 11-16-85; Ord. No. 90-1, 1-16-90; Ord. No. 99-25, 12-15-99; Ord. No. 08-16, 7-21-08)

In order to quickly address this loophole and ensure that there are clear-cut explanations of conduct that does and does not violate Chapter 30, staff recommends the following two-pronged approach: prompt amendments to Chapter 30 as set forth in Attachment A to this Report, followed by a longer-term, more nuanced development of additional amendments to Chapter 30 that comprehensively address the relationship to and management of vending in the public realm.

Part One: The immediate amendments to Chapter 30, which are the subject of this report, include four elements. The following table summarizes each element and the rationale for the proposed change.

Proposed element	Rationale
Refine exemptions to the requirements of Chapter 30	Section 30-2.1 lists several activities that are exempt from the permit requirements of Chapter 30. One such exemption pertains to religious, political and written material. Staff recommends updating the language to reference First-Amendment-protected materials rather than just written materials.
Permit vending for up to two hours but in any event not longer than the lawful time limit prescribed for parking meters in a legal parking space.	<p>The intent of Section 30-9 of the ordinance is to limit vending to only one (1) hour when vending from the street. This time limitation is challenging for vendors and customers when typical lunch hours are between 12:00 noon and 2:00 p.m. A vendor is not able to adequately serve customers and patrons are unable to purchase lunch if their hours don't correspond. Further, the overwhelming majority (approximately 90 percent) of parking meters within the Metro Station Areas are for at least two (2) hours.</p> <p>To address the construct of the language within § 30-9, to allow for the general intent to remain, and without a more comprehensive approach to manage the public realm, staff recommends that coordination of the time limitation for vending with the time limitation for parking is a simple but straightforward solution.</p>
Explain the regulation of the permitted time.	<p>The vending time limitation is regulated as the time during which sales are made to persons. It does not include food prep. time or clean up time when the vehicle is closed for sales.</p> <p>After the vending time limitation expires, either sales from the</p>

	vehicle must cease or the vehicle must vacate the parking space and be moved to another legal parking space. If the parking area does not have marked spaces, then the vehicle must be moved at least 25 feet.
Allow the County Manager greater flexibility to establish on-street Vending Zones.	Section 30-10 grants authority to the County Manager to establish on-street Vending Zones. Currently, these zones must be within 1,200 feet of a Metro station. When initially crafted, the intent was to focus vending operations in areas typically associated with commercial uses proximate to a Metro station. While the 1,200 foot radius covers most of the area within the Metro Station Areas, there are some edges with higher densities that are commercial and mixed-use districts and are appropriate for vending. Therefore, staff recommends that the County Manager have the authority to establish Vending Zones in the Metro Station Areas, as defined within the General Land Use Plan, with no specific distance from a Metro station.

Part Two: While the first part of the proposed amendments to Chapter 30 fixes immediate concerns with the ordinance to clarify certain regulatory standards, Part Two is proposed as a comprehensive update to Chapter 30. Recognizing that management of the public realm – including curb space and sidewalks – is an important and necessary endeavor for the County, the vending ordinance update must ensure that vending is regulated and managed appropriately and effectively within the public realm.

Management of the curb space is important to ensure that our transportation networks run smoothly with space to accommodate bus stops, taxi stands, car share and bike share; that visitors and customers can find convenient parking; shops can receive deliveries; and that vending truck operators can vend. Management of sidewalks is equally important and can be just as challenging. Numerous uses and activities claim a place within the sidewalk area: street trees and street furniture, parking meters, signs, bike share stations and bike racks, bus shelters, outdoor cafes, vending tables and carts, queuing customers and, perhaps most importantly, the pedestrian. Determining the appropriate placement for these often competing priorities is challenging and may vary from block to block.

With these varying uses and users within the public realm, any significant update to Chapter 30 will require conversations – some continued and some new – with a variety of stakeholders. Over the past several months, staff has heard from business improvement districts (BIDs), property owners, brick-and-mortar businesses, vendors and their customers to listen to concerns about the current ordinance. Generally, all agree that a vibrant and active streetscape is good for the community and that vending can play a role in this activity. The disagreement among the stakeholders is around how vending is regulated and managed. Appropriate and appropriately managed uses within the public realm may resolve these differing opinions.

A comprehensive update to Chapter 30 must: appropriately balance vending operations with other uses within the streetspace - including the use of sidewalks and appropriate curb space management; maintain the public health, safety and welfare; review locations for vending; provide clarity and congruence between policy and practice; ensure regulatory processes are efficient, enforceable, if necessary, and equitable; and facilitate the creation of a convenient, attractive and harmonious community.

CONCLUSION: The current language of Chapter 30 (Peddlers, Vendors and Canvassers) has made it difficult for vendors, does not accommodate customers appropriately and creates a regulatory and enforcement challenge. These amendments, an interim update (Part One) to Chapter 30, will address some of the current concerns. However, a more thorough analysis of the public realm and the management of uses within that space, and continued conversations with numerous stakeholders will result in a comprehensive update to Chapter 30 (Part Two).

Therefore, to ensure that there is some level of regulatory oversight of vending within the public realm, staff recommends that the County Board adopt the attached ordinance (Attachment A) to amend, reenact, and recodify Chapter 30 (Peddlers, Vendors and Canvassers) of the County Code to refine the language for exemptions; extend the permitted time for on-street vending from sixty (60) minutes to the lesser of two (2) hours or the lawful time limit prescribed for the respective parking meter zone; explain the regulation of the permitted time; and allow the County Manager greater flexibility in establishing on-street vending zones.

ATTACHMENT A

AN ORDINANCE AMENDING CHAPTER 30 (PEDDLERS, VENDORS AND CANVASSERS), SPECIFICALLY SECTIONS 30-2.1, 30-8, 30-9 AND 30-10 OF THE ARLINGTON COUNTY CODE, TO REFINE THE LANGUAGE FOR EXEMPTIONS; EXTEND THE PERMITTED TIME FOR ON-STREET VENDING FROM SIXTY (60) MINUTES TO THE LESSER OF TWO (2) HOURS OR THE LAWFUL TIME LIMIT PRESCRIBED FOR THE RESPECTIVE PARKING METER ZONE; EXPLAIN THE REGULATION OF THE PERMITTED TIME; AND ALLOW THE COUNTY MANAGER GREATER FLEXIBILITY IN ESTABLISHING ON-STREET VENDING ZONES.

BE IT ORDAINED by the County Board of Arlington County, Virginia that:

1. Chapter 30 (Peddlers, Vendors and Canvassers), specifically Sections 30-2.1, 30-8, 30-9 and 30-10 of the Arlington County Code is amended, reenacted and recodified, effective on the date of the County Board’s adoption of an ordinance to that effect, to read in pertinent part as follows:

* * *

Proposed amendments are shown as follows:

Text denoted with underline or ~~striketrough~~ is text proposed to be added or ~~deleted~~, respectively.

Chapter 30

PEDDLERS, VENDORS AND CANVASSERS

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§ 30-2.1. Exemption from Permit Requirements.

A. The following shall be exempt from the permit requirements of this chapter:

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4. Peddlers or vendors of religious, political or ~~written~~ other First-Amendment-protected materials; and

* * *

§ 30-8. Use of the Streets and Other Public Places--Vending or Canvassing from a Stationary Location.

No peddler, vendor, or canvasser shall have any exclusive right to any location on public

17 property, unless operating from an established kiosk; nor shall he or she:

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21 L. Display any kiosk items for sale or have any display racks (or similar items) more
22 than two (2) feet from the kiosk between the hours of 10:00 p.m. and 6:30 a.m. or during any
23 non-business hours;~~or~~.

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25 Each peddler, vendor, or canvasser shall provide receptacles for the disposal of waste
26 materials or other litter created in the immediate area of any stationary location from which sales,
27 offers of sales or deliveries are taking place, and they shall request customers to place all waste
28 and litter in the receptacles and they shall remove and dispose of the waste materials and litter.
29 (9-29-79; Ord. No. 85-1, 1-5-85; Ord. No. 85-39, 11-16-85; Ord. No. 87-14, 5-16-87; Ord. No.
30 90-1, 1-16-90; Ord. No. 99-25, 12-15-99; Ord. No. 08-16, 7-21-08)

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32 **§ 30-9. Same – Vending from Vehicles.**

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34 It shall be unlawful for peddlers, vendors, or canvassers or any other person to park or
35 stop a vehicle on or alongside the roads, highways and streets of Arlington County for the
36 purpose of selling, soliciting the sale of, displaying or offering for sale any goods, wares or other
37 merchandise in or from the vehicles except under the following conditions:

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39 A. The vehicle is parked or stopped only for the purpose of making house to house
40 sales; or

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42 B. The vehicle is stopped to make sales to persons, between the hours of 7:00 a.m.
43 and 8 p.m., in which case the vehicle must stop only in a space where motor vehicle parking is
44 permitted pursuant to Chapter 14.2 of this Code and may remain stopped for:

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46 1. No longer than five (5) minutes for vehicles stopped within one hundred (100)
47 feet of any public school between the hours of 11:00 a.m. and 2:00 p.m. on days
48 the school is open for student instruction; and

49 2. No longer than sixty (60) minutes the lesser of two (2) hours or the lawful time
50 limit prescribed for the respective parking meter zone as defined by Chapter 14.2
51 of the Arlington County Code for all other vehicles, and must stop only in a space
52 where motor vehicle parking is permitted pursuant to Chapter 14.2 of this
53 Code (i.e. one (1) hour of vending permitted from a parking space in a parking
54 meter zone in which parking is limited to one (1) hour). When the same vehicle is
55 observed to be in the same location that it was in after an initial observation of the
56 vehicle in that location, then it shall be presumed that the vehicle has not moved
57 from that location since the initial observation;

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59 After the expiration of the vending period set forth above, the vehicle must either cease vending
60 or be moved, at a minimum, to another space where motor vehicle parking is permitted pursuant
61 to Chapter 14.2 of this Code, or twenty-five (25) feet in the absence of marked spaces; or

63 C. The vehicle is stopped in an area that the County Manager has designated as
64 temporary parking areas for ~~the Arlington County a Farmer's~~ Farmer's Market adjacent to
65 land zoned so as to permit a farmer's market, provided that no parking spaces may be designated
66 for this purpose for more than twenty (20) hours in any week; or

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68 D. The vehicle is stopped in an area designated by the County Manager as a street
69 vending zone pursuant to § 30-10 herein. ~~No~~ Any vehicle parked in a street vending zone must
70 be appropriately sized to legally park within a parking space as defined by Chapter 14.2 of this
71 Codemay exceed eighteen (18) feet in length, seven (7) feet in width and ten (10) feet in height,
72 excluding umbrellas; or.

73
74 ~~E. Sales are made between the hours of 7:00 a.m. and 8:00 p.m.~~
75 (Ord. No. 85-39, 11-16-85; Ord. No. 90-1, 1-16-90; Ord. No. 99-25, 12-15-99; Ord. No. 08-16,
76 7-21-08)

77
78 **§ 30-10. Same--Designation of Street Vending Zones.**

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80 A. Whenever it appears, after a survey of land use activity, parking resources and a
81 traffic engineering study, that there is a need to do so, the County Manager may designate street
82 vending zones within the County for use by peddlers and vendors in compliance with the
83 following criteria:

- 84
85 1. A zone or zones may be created in any Metro Station Area of the County, as
86 defined in the Arlington County General Land Use Plan, ~~that lies within twelve~~
87 ~~hundred (1,200) feet of a Metro station and~~ contains at least one million
88 (1,000,000) square feet of office space or in any commercial or industrial area of
89 the County, as defined by the Arlington County General Land Use Plan;
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91 2. The total area designated as street vending zones or zone in each area may not
92 exceed one hundred thirty-five (135) feet in length and eight (8) feet in width; and
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94 3. A zone shall only be located adjacent to sidewalks at least ten (10) feet in width.

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96 B. The hours of operation within each street vending zone shall be set by the County
97 Manager so as not to interfere with pedestrian and vehicle traffic, but in no case shall vending in
98 street vending zones be permitted between 7:30 a.m. and 9:00 a.m. on weekday mornings nor
99 between 4:00 p.m. and 6:00 p.m. on weekday afternoons.

100
101 C. Street vending zones designated by the County Manager shall be subject to review
102 and renewal at least every two (2) years after each designation and the County Manager may
103 renew, remove or alter the site or size of zones after such review unless removal or alteration is
104 required sooner by a change in conditions in the area where the zone is designated.
105 (Ord. No. 85-39, 11-16-85; Ord. No. 90-1, 1-16-90; Ord. No. 08-16, 7-21-08)

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2. All other provisions of Chapter 30 of the Arlington County Code shall remain as previously enacted.