

## ORDINANCE NO. O-9-11

### AN ORDINANCE TO AMEND CHAPTER 16 OF THE CITY CODE, ENTITLED, "PEDDLERS, HAWKERS AND SOLICITORS," §§ 16-3 THROUGH 16-5, SO AS TO AMEND THE APPLICATION REQUIREMENTS AND PROCESS IN §§ 16-4 AND 16-5

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that Chapter 16 of the City Code, entitled, "Peddlers, Hawkers and Solicitors," is hereby amended to read as follows:

#### Chapter 16

#### PEDDLERS, HAWKERS AND SOLICITORS

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#### **Sec. 16-3. Certificate of registration—Required; violations and penalties.**

It shall be unlawful for any person to hawk, peddle, vend, solicit or offer for sale goods or services in or upon the streets, highways, sidewalks or rights-of-way, or travel from house to house, door to door or operate from a temporary stand or display from a publicly owned or maintained area without having previously obtained a certificate of registration from the city manager or to engage in such conduct or activities in violation of the provisions of this chapter.

Any person who shall violate the provisions of this chapter shall be deemed guilty of a municipal infraction punishable in accordance with the provisions of section 1-9 of this Code.

#### **Sec. 16-4. Same—Procedure for obtaining.**

(a) An applicant for a registration certificate under the terms hereof shall execute an application form and pay any required registration fee at the office of the city manager, which application form shall require the following information and materials:

- (1) Applicant's name, home and business addresses, and local address, if any;

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>Single strikethrough</del>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
<del>Double boldface strikethrough</del>	<i>Deleted from existing law or the bill by amendment.</i>
***	<i>Existing law unaffected by bill.</i>

- (2) ~~A physical description of the applicant, setting forth the applicant's age, sex, height, weight, complexion, color of hair and eyes, and any other distinguishing physical characteristic~~ A copy of a State authorized Identification Card;
- (3) The name and address or principal office of the person, if any, for or through whom or under whose auspices the applicant is authorized to conduct such activity; or, a statement that the applicant is engaged in such activity solely on his own behalf;
- (4) A brief description of the type or types of articles or services for which orders are to be solicited;
- (5) A statement as to the approximate amount to be collected by the applicant from each customer and whether such amount is in full or partial payment;
- (6) The length of time during which the applicant expects to remain in the city for the purpose of engaging in such activity;
- (7) A statement as to whether any registration certificate provided for in this section or in any other jurisdiction was issued or denied to the applicant within the current or prior calendar year and if issued, whether such registration certificate has been revoked, setting forth the reasons for such revocation, if any;
- (8) A statement as to whether the applicant has been convicted of any crime, and if so, the nature of the offense and punishment or penalty assessed therefor;
- (9) The applicant shall attach to such application a sample copy of the order or receipt form or forms used by him in connection with such activity;
- (10) The applicant shall furnish with the form ~~two (2)~~ one (1) photographs of himself or herself similar in type and size to those required in connection with United States passports, or deviation in type and size as may be required by the city manager or designee, ~~one of which shall remain on file in the office of the city manager and the other shall be attached to and made a part of the registration certificate herein provided for;~~
- (11) In the case of roadside vendors, in addition to the above, said vendor shall supply written authorization from the owner of the property upon which the goods are sold or offered for sale; a copy of a valid trader's license; a plat or drawing of the area upon which the activity will take place showing sales area, parking area and access points; a schedule

of operating locations by date and hours of operation; and evidence that the property is zoned in a zoning district permitting such activity and that such activity does not violate the approved site development plan. A certificate of registration issued to a roadside vendor may be revoked pursuant to the procedures established in section 16-6 of this chapter on any ground stated therein; or further, if the activity conducted by the vendor causes or contributes to unsafe or hazardous vehicular or pedestrian traffic circulation or causes a nuisance to the general public.

(b) At the time of making either an original application or an application for a renewal of such registration certificate, the applicant shall pay to the city a fee which shall be established by resolution of the mayor and city council, for the purpose of covering costs and expenses of processing the application and certificate, whether an original certificate or a renewal certificate.

(c) The application provided for herein shall be deemed a continuing application and if, after the issuance of the registration certificate as provided for herein, the information set forth in such application shall become inaccurate for any reason and the holder of the registration intends to, or does, continue activity thereunder, notice of such change and the correct information shall be furnished to the city manager by the close of the next full business day.

~~(d) At the time of executing such application form, the applicant shall also submit for the inspection of the city manager written proof of identity which may be in the form of an automobile operator's license or identification card issued to the applicant by the person, if any, for or through whom or under whose auspices the applicant is authorized to conduct such activity, or other similar credential containing a physical description of the applicant and a specimen of the applicant's signature. The city manager is further authorized to undertake such additional investigation of the applicant's identity and prior business dealings and character as he deems necessary.~~

(e) Every applicant under this chapter who shall solicit, peddle or hawk the sale of goods or services which are not to be tendered or rendered immediately to a purchaser or prospective purchaser shall may be required to file with the city manager or designee a cash bond, corporate bond or letter of credit running to the city in the amount of one thousand dollars (\$1,000.00), conditioned upon the applicant complying fully with all provisions of this chapter and guaranteeing to any inhabitant of the city doing business with the applicant that the goods or services purchased will be tendered according to representations of the applicant.

(f) Subsequent to the expiration or other termination of a registration certificate, the city manager is authorized to declare as abandoned and forfeited any cash bond posted pursuant to a requirement of this chapter, and relinquish proceeds thereof to the general treasury of the city, when after giving the applicant who posted the cash bond thirty (30) days written notice first by registered mail, and if unclaimed by first-class mail, such applicant fails to request of the city the return

of the cash bond. Upon failure to request of the city return of the cash bond, as provided herein, the applicant, its successors, heirs and assigns relinquish all claim to said cash bond.

**Sec. 16-5. - Same—Issuance; renewal; required conduct.**

(a) Upon compliance by the applicant of the provisions hereinabove or hereinafter set forth, and upon the finding by the city manager that the issuance of the registration certificate would not be adverse to the public interest, the registration certificate shall then be issued to the applicant and shall be dated and signed by the city manager; provided, however, that the city manager shall not be required to issue such a certificate to any person who shall have been convicted of any crime, or to any person whose registration certificate has heretofore been revoked in any jurisdiction, or who has been convicted under the provisions hereof within one year from the date of application.

(b) All certificates, including renewal certificates, shall expire ~~on December 31 of the calendar year issued~~ one year after issuance. The certificate may be renewed upon the execution of a renewal application setting forth that the statements set forth in the origin application are true and accurate statements at the time the renewal application is filed, or a renewal application setting forth all changes in the original application which are required by change in the facts since the date of filing the original, or preceding, application.

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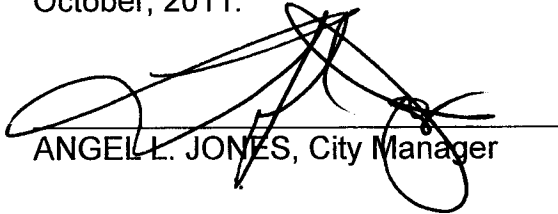
ADOPTED this 3<sup>rd</sup> day of October, 2011, by the City Council of Gaithersburg, Maryland.

  
SIDNEY A. KATZ, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this 3<sup>rd</sup> day of October, 2011. APPROVED by the Mayor of the City of Gaithersburg, Maryland, this 3<sup>rd</sup> day of October, 2011.

  
SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the 3<sup>rd</sup> day of October, 2011, and the same was APPROVED by the Mayor of the City of Gaithersburg on the 3<sup>rd</sup> day of October, 2011. This Ordinance will become effective on the 24<sup>th</sup> day of October, 2011.



ANGEL L. JONES, City Manager