

ITINERANT VENDORS, HAWKERS AND PEDDLERS ORDINANCE

Adopted 5/22/08

ENABLING LEGISLATION

RSA 31:102-A. "Hawkers, Peddlers and Vendors. The governing board of a city, town or village district may adopt, by ordinance or regulations, provisions on the licensure and regulation of itinerant vendors, hawkers, peddlers, traders, farmers, merchants, or other persons who sell, offer to sell, or take orders for merchandise from temporary or transient sales locations within a town or who go from town to town or place to place within a town for such purposes. A city, town or village district shall be specifically prohibited, however from licensing or regulating a candidate for public office in the process of obtaining signatures on nomination papers, who seeks to have his name placed on the ballot for the state general election by submitting nomination papers under RSA 655:40. Provisions adopted under this section shall be in addition to any requirements imposed by the state under either RSA 320 or RSA 321 and may include, but shall not be limited to:

- I. Classification of licensees consistent with constitutional requirements of equal protection;
- II. Imposition of reasonable requirements, including fees, for the issuance of a license;
- III. Restrictions as to the areas of municipality open to licensees and the hours and days of their operation; and
- IV. Other reasonable conditions and terms deemed necessary for public convenience and safety as the governing board determines."

DEFINITIONS

Hawkers and Peddlers. RSA 320:1 Defined. The terms "hawker" and "peddler" shall mean and include any person, as defined by RSA 358-A:1, either principal or agent, who:

- I. Travels from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefore, any goods, wares, or merchandise, either on foot or from any animal, cart, or vehicle; or
- II. Travels from town to town, or place to place in the same town, offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs and improvements, including contracts for the replacement or installation of siding on any residence or building; or
- III. Keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise.

Itinerant Vendors. RSA 321:1 Defined. For the purposes of this chapter, the words "itinerant vendors" mean all persons (as defined by RSA 358-A:1), both principals and agents, including those persons whose principal place of business is not in this state, who engage in a temporary or

transient business in this state, either in one locality or traveling from place to place, selling goods, wares and merchandise, with a total value greater than \$500, from stock or by sample for future delivery, and who, for the purpose of carrying on such business, hire or occupy a temporary place of business. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, motel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or trailer temporarily occupied for the purpose of making retail sales of goods to the public.

Food Service Licensure. RSA 143-A:3 Defined.

I. "Commissioner" means the commissioner of the department of health and human services.

II. "Department" means the department of health and human services.

III. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

IV. "Food service establishment" means any fixed or mobile, attended or unattended restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial feeding establishment; food vending operation; private or public organization or institution, whether profit or nonprofit, which routinely serves food; catering kitchen; commissary, or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating and drinking establishment or operation in which potentially hazardous food is served or provided for the public with or without charge.

V. "Occasional food service establishment" means any food service establishment where food is served or provided for the public on the premises of the establishment, whether or not there is a charge for such food, no more than 4 days during a 30-day period. Any part of a day shall be considered one full day for the purposes of this definition.

V-a. "Occasional food service events" means events which are not regularly scheduled where food is provided to participants such as extracurricular school events, non-profit sporting events, and periodic events sponsored by religious or nonprofit organizations.

VI. "Person" means an individual, partnership, corporation, association, or other legal entity.

VII. "Retail food store" means any establishment or section of an establishment where food or food products intended for off-premise consumption are offered to the public. The term includes delicatessens which offer prepared food in bulk quantities only. It does not include establishments which handle only prepackaged, not potentially hazardous foods; roadside markets or farm stands which sell only fresh fruits and vegetables; food service establishments; or food and beverage vending machines.

VIII. "Temporary food service establishment" means any food service establishment which operates at a fixed location for a temporary period of time not exceeding 2 weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering.

PURPOSE

The purpose of this Ordinance is to protect the safety, health, and welfare of the general public and not to protect the personal or property interests of any individual.

Nothing in this Ordinance shall be deemed to be the making of a promise, or the undertaking of a special duty with any person; nor shall the provision of, or failure to provide such licenses or to undertake particular inspections or types of inspections be deemed to create a special relationship or duty towards any person upon which an action in negligence or any other tort might be founded.

SECTION 1. Every **Hawker and/or Peddler, Crafter and Itinerant Vendor**, before making any sale of goods, wares, merchandise, or services in the Town, shall apply to the Town Manager for a permit (15) fifteen days prior to the event.

SECTION 2. In granting any license authorized pursuant to this ordinance, the Town Manager shall be governed by the following minimum standards and the applicant for a license shall be governed by the following general restrictions, however, the provisions of this section shall not be construed to limit any other standards that may be established for specific activities pursuant to the provisions hereinafter imposed:

- I. No person shall hawk or vend without having first been issued a license by the Town of Bristol Town Manager and also authorized by the Chief of Police, Fire Chief and Health Officer when applicable.
- II. All licenses shall be issued for specific times, dates and locations, which shall be set forth in writing by the Town Manager on each license issued.
- III. The Town of Bristol Itinerant Vendor Permits and Town of Bristol Hawkers and Peddlers Permits shall bear the date on which they are issued and unless sooner revoked, shall expire one year from the date of approval unless an earlier expiration date was established.
- IV. License applications shall be made to the Town Manager on a form provided by the Town Manager. For public safety purposes, the Town Manager is permitted to obtain certain personal information regarding, but not limited to, age, social security numbers, date of birth, driver's license and motor vehicle registration information. An applicant must submit the following with the application:
 - a. A copy of their Hawkers and Peddlers License, issued by the Secretary of State for the State of New Hampshire unless exempt according to RSA 320 or RSA 321.
 - b. An application fee of \$50.00 must be submitted at the time of application unless exempt. (If the application is submitted less than (15) fifteen days prior to the event the application fee is \$75.00.) Payment must be made by bank, cashier or certified check made payable to the Town of Bristol.
 - c. A copy of the applicant's criminal record from the State that they reside in as well as from the State of New Hampshire at the request of the Chief of Police.
 - d. A copy of the principal and any agent's criminal record from the State that they reside in as well as from the State of New Hampshire at the request of the Chief of Police.

- e. A copy of the principal's and any agent's driver's license or other State issued picture identification card.
- f. A certificate of current/valid insurance coverage in an amount no less than \$500,000, and will remain in effect during the term of the license, unless the organization is considered exempt according to RSA 320 or RSA 321.
- g. Food vendors must attach a copy of their sanitation inspection certification as required by RSA 143 and RSA 143-A. Food Vendors that are not required to obtain a Food license from the State must be inspected by the local Health Officer.

SECTION 3.

The local Health Officer shall require Food Vendors that are not required to obtain a State Food License to:

1. Submit a maintenance contract for solid and sanitary waste removal. All vendors shall be responsible for all trash, waste, solid waste and debris that accumulates within three feet of any vending stand, and such trash, waste or solid waste and debris shall be deposited in a trash container.
2. Food vendors must provide trash receptacles immediately adjacent to their stands. All trash receptacles placed must be properly maintained throughout the event to ensure a healthy environment.
3. Must have an approved food preparation system by local Health Officer.
4. Must have an approved food preservation system by local Health Officer.
5. Must provide lidded sanitary containers for in facility use during food preparation and out of facility use by patron.

SECTION 3.

The permit **fee** provisions of this section shall not apply to any non-profit corporation duly organized under RSA Chapter 292 and churches and other charitable organizations provided that any officer of such corporation supplies the Town Manager's Office with official proof of such organization. In addition, the permit **fee** provisions of this ordinance shall not apply to youth groups officially sanctioned by the Town of Bristol or by SAU #4, nor to "lemonade stands" or other similar enterprises operated solely by children aged 16 years or less for a period of two consecutive days or less in a week. *Vendor/crafter permit fees for the Town sponsored Old Home day and Summer Concert Series is \$25. Reduction of vendor application permit fees for other town sponsored events to be considered on a case by case basis by the Selectboard.* **Exempt organizations or individuals conducting business on Town of Bristol property or within a Town of Bristol right-of-way, before making any sale of goods, wares, merchandise, or services, shall apply to the Town Manager for a peddler's permit and shall obtain advance location approval from the Chief of Police.**

SECTION 4.

The Town of Bristol has one authorized location for the purpose of Itinerant Vendor or Hawker and Peddler to sell goods or services. A licensed Itinerant Vendor or Hawker and Peddler may

sell goods or services in the (1) designated Vendor Parking Space in the Downtown Municipal Parking Lot located at 10 North Main Street, Tax Map 114-010 use of the space is on a first come first serve basis. Permits are NOT issued for the exclusive use of this location. If the Town of Bristol or some other organization is hosting an event, an Itinerant Vendor or Hawker and Peddler must obtain a license as well as approval for location from the Chief of Police at the designated event site.

SECTION 5.

A Town of Bristol Itinerant Vendor or Hawkers and Peddlers Permit along with the stated fee shall be required notwithstanding the fact that goods, wares, merchandise or services are to be sold or offered for sale from any private property within the Town. In the case of any such sale or offer for sale from private property where the itinerant vendor is not the landowner, the landowner of the property shall provide written permission for the applicant to use the landowner's property.

SECTION 6. Any itinerant vendor, hawker or peddler who sells, offers or exposes for sale, any goods, wares, merchandise or services in such a manner in the opinion of the Chief of Police, so as to impede the flow of vehicular or pedestrian traffic, or to create a health or safety hazard or a public nuisance, shall be prohibited from operating within the Town of Bristol until the situation warranting suspension of the permit is appropriately abated in the opinion of the Chief of Police and the permit has been reinstated by the Town Manager. In locations where itinerant vending, hawking or peddling is allowed, the Chief of Police may require the presence of a paid police detail to preserve the public safety or welfare. The police detail shall be billed by and payable to the Town of Bristol at prevailing rates, and shall be the liability of the property owner of the site of the itinerant vending, hawking or peddling activity.

SECTION 7. Any Town of Bristol Itinerant Vendor Permit or Town of Bristol Hawkers and Peddlers Permit granted by the Town Manager may be revoked at any time for cause sufficient in law. Any person whose license has been revoked under this section shall be ineligible to be licensed as a hawker or peddler in the Town of Bristol. The Chief of Police will notify the Secretary of State for the State of New Hampshire of any person whose license has been revoked. This license may not be transferred.

SECTION 8. Any person who violates any provision of this Ordinance shall be guilty of a violation and subject to a penalty in the amount of \$500.00. Such person shall be deemed to have committed a separate violation for each and every day or portion of which any violation of the Ordinance is committed, continued or permitted by such person.

Any property owner who allows an unpermitted itinerant vendor, hawker or peddler to operate on his private property shall be subject to a \$500 fine for each day the unpermitted itinerant vendor, hawker or peddler is allowed to operate on his property.

SECTION 9. Every Town of Bristol Itinerate Vendor Permit or Town of Bristol Hawkers and Peddlers Permit shall be exhibited by the permittee on his/her person in full public view.

SECTION 10. Any person whose license is revoked under this chapter shall have the right of appeal to the Board of Selectmen.

SAVING CLAUSE

This ordinance supersedes any and all preceding ordinances pertaining to Itinerant Vendors and Hawkers and Peddlers.