

CHAPTER 14B
HAWKERS, PEDDLERS AND VENDORS

14B:1 - PURPOSE.

Pursuant to the authority conferred by RSA 31:102-a, the City of Somersworth has adopted this Ordinance to provide for the licensure and regulation of itinerant vendors, hawkers, peddlers, traders, farmers, merchants and other persons who sell, offer to sell, or take orders for merchandise from temporary or transient sales locations within the City.

14B:2 - DEFINITIONS.

- (A) The terms "hawker" and "peddler" shall have the same meanings as set forth in RSA 320:1.
- (B) The term "itinerant vendor" shall have the same meanings as set forth in RSA 321:1.
- (C) "Vendor" shall, in addition to any other meaning contained in any statute, apply to and include the following:
 - (1) Any person, either principal or agent, who offers and/or exposes for sale within the City from a wagon, stand, motor vehicle, or other means of conveyance any goods, wares, merchandise, including but not limited to food, beverages, farm produce, or garden truck provided the following conditions are met:
 - (a) The vendor entity shall be moved from its location overnight for a minimum of eight hours; except for seasonal Christmas tree stands.
 - (b) The length of stay at any one location shall not exceed three (3) months within a calendar year.
 - (c) Parking of sufficient size and number shall be provided on the property where the vendor is located or where there is legally designated on-street parking in a manner where it will not reduce the number of parking spaces provided for permitted uses below the required minimum by the Zoning Ordinance and in a location that will not create a traffic hazard as determined by the Police Chief.

- (d) The vendor entity shall not infringe upon any City and State street or roadway.
- (e) The vendor entity shall operate as a self-contained unit, without being dependent upon any outside utilities.
- (f) The vehicle shall be able to be readily moved upon request of the Code Enforcement Officer or the Police Chief.
- (g) Only one (1) sign not to exceed ten (10) square feet in surface on each side shall be permitted per vendor entity and erected in such a manner so as not to obstruct free and clear vision along or onto a public right-of-way. Where a vendor entity contains advertising displayed on a vehicle or other means of conveyance in the form of lettering, no additional signage shall be allowed.
- (h) Only until December 31, 1993, off-premise signs, not to exceed ten (10) square feet (for seasonal purposes) may be placed at four locations for a seasonal vendor, not on a major thoroughfare, on private property.

(Passed 11/15/1993.)

- (D) "Motor Vehicle" shall include and apply to each and every means of conveyance required to be licensed by and registered with the Department of Motor Vehicles of any state.
- (E) "Sell" or "sale" includes any offer to sell and attempt to sell.
- (F) "Stand" includes any table, bench, rack, wagon, pushcart, showcase or other vehicle or device used for displaying, storing or transporting any articles or products offered for sale by a hawker, peddler, itinerant vendor or vendor.

14B:3 - EXEMPTIONS.

The provisions of this Ordinance shall not apply to the following:

- (A) Any person selling his/her personal household goods on his/her own property (e.g., a yard sale, garage sale or tag sale);

- (B) Any commercial travelers or selling agents soliciting sales from dealers;
- (C) Any person who operates a permanent business in the City and displays items, goods or produce for sale on a stand located on the public way located immediately adjacent to or in front of his place of business (e.g., a so-called "sidewalk sale" or display);
- (D) Any person who is a participant in a "street fair", as defined in RSA 31:100, which is authorized by the City Council.

14B:4 - LICENSE REQUIRED; DISPLAY OF LICENSE.

No hawker, peddler, vendor or itinerant vendor, as defined in Section 14-B:2, shall engage in the business of hawker, peddler, vendor or itinerant vendor without a license being granted by the Licensing Board of the City. Such license as granted shall at all times be conspicuously displayed on or in any motor vehicle or stand used in such business.

14B:5 - LICENSE APPLICATION.

- (A) An applicant for a license to be issued pursuant to this Ordinance shall obtain the application form for the same from the Office of the City Clerk. The application shall include requests for the following information:
 - (1) The name, home address and business address of the applicant.
 - (2) The name, home address and business address of the owner of the business for which the application is made, if other than applicant.
 - (3) If any stand and/or motor vehicle will be used in the business:
 - (a) the name and address of the owner of any and all such stand(s) and/or motor vehicles;
 - (b) the license and registration number of any such motor vehicle(s);
 - (c) a written description of such stand(s) and/or motor vehicle(s); and
 - (d) a photograph of any and all such stand(s) and/or motor vehicle(s).

- (4) A description of the merchandise, produce, goods, foods or beverages to be offered for sale. In the case of farm products or orchard produce, a statement as to whether the same is produced or grown by the applicant.
 - (5) A description of the proposed location of the business; if the applicant proposes to travel from place to place within the City, then a description of the general area within the City in which he proposes to transact business.
 - (6) The days of the week and the hours of the day during which the applicant proposes to transact business.
 - (7) If a license to transact business has been obtained from the Secretary of State for New Hampshire, then a copy of the same shall be submitted with the application.
 - (8) A certificate of insurance or other proof acceptable to the Licensing Board which establishes that the applicant has obtained a policy of insurance from a company licensed to do business in New Hampshire insuring the applicant against claims for property damage and personal injury, including death, arising out of the operation of the business for which the license is requested. The amounts of coverage for both property damage and personal injury shall be stated.
 - (9) A verification from the Department of Planning and Economic Development that the applicant's business is in conformance with all applicable land use ordinances.
(Passed 11/15/1993.)
- (B) The application, when completed, shall be submitted to the City Clerk, together with the payment of all fees required to be paid by Section 14-B:7 of this Ordinance. The City Clerk shall promptly forward the completed application to the Licensing Board. The Board shall act upon the application within thirty (30) days from the date the same is received by the City Clerk.

14B:6 - BOARD ACTION.

- (A) The Board shall grant a license when an application is

received with all requested information provided on it and upon payment of all fees due under this Chapter. However, the Board may refuse to grant a license under the following circumstances:

- (1) A license required from the Secretary of State has not been obtained or proof of such license has not been submitted to the Board.
 - (2) Proof of insurance coverage is not submitted.
 - (3) A license has been issued for the same fixed location proposed by the applicant.
- (B) The Board may conditionally issue a license subject to proof of an increase in insurance coverage to such amounts as the Board may deem reasonable. If such proof is not submitted to the Board within thirty (30) days of a conditional license being issued, then the license shall be revoked.
- (C) The Board may, in its discretion, issue a license which restricts or specifies the location and/or hours of operation of any business subject to this Ordinance.
- (D) The Board shall act without holding a hearing upon any application. However, if the Board determines that a license application will not be granted or that a license will be issued with restrictions, the Board shall provide to the applicant, by certified mail, a notice of its proposed action and a date by which the applicant may request, in writing, that a hearing be held by the Board upon the application. The Board shall grant every request for a hearing and shall schedule the same as soon as practicable after receipt of a request for hearing and, in no event, no later than fourteen (14) days after receipt of such request. After hearing, the Board may affirm, reverse or modify its proposed decision, stating in writing the reasons therefore. Such determination shall be issued in writing no later than thirty (30) days after the date of the hearing. If an applicant does not request a hearing in writing within the time set by the Board in its notice, then the Board's proposed decision shall automatically be its final decision, without further notice to the applicant. Any applicant who is aggrieved by a decision of the Board may appeal to the Superior Court of Strafford County. Fees shall be returned to the applicants whose applications are denied.

14B:7 - FEES.

- (A) The following fees shall be paid with the application for a license at the time the application is submitted to the City Clerk:
- (1) If no motor vehicle shall be used in the business, an annual fee of Two Hundred Dollars (\$200.00);
 - (2) If a motor vehicle shall be used in the business, an annual fee of Two Hundred Dollars (\$200.00) for each motor vehicle so used;
 - (3) A temporary license for a period not to exceed 48 consecutive hours may be obtained upon payment of a fee of \$10.00.
 - (4) If applications for annual licenses are received on or after September 1 of any year, the required fee shall be one-half of the annual fee otherwise due.
- (B) Applications for renewal of a license shall be submitted to the City Clerk on or before October 31 each year, along with the payment of the annual fee as set forth in Section 14-B:7(A).

14B:8 - LICENSE EXPIRATION; REVOCATION.

- (A) Every annual license shall expire at midnight on December 31 of each year, unless renewed in a timely manner. Every renewal of an annual license shall be effective only for an additional year so that the same shall similarly expire on December 31.
- (B) A temporary license shall expire at the time stated in the temporary license.
- (C) A license may be revoked by the Board, after notice and hearing, for good cause shown, including proof of violation of any term or condition stated in the license.

14B:9 - VIOLATIONS.

Any person, as defined in RSA 358-A:1, who violates the provisions of this Ordinance may be subject to a fine of up to One Hundred Dollars (\$100.00) for each day of such violation.

Passed 1/8/1990.

Amended 11/15/1993 - Section 14B:2(C) and Section 14B:5(A).