

CO 711 Hawkers and Peddlers License

History: Adopted by the Board of Selectmen of the Town of Allenstown, November 28, 2005 as Ordinance No. Chapter 1, Article 4.

CO 711:1 Authority

The enabling legislation is 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 person 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 purpose. 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 wither RSA 320 or RSA 321 and may include, but shall not be limited to:

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

CO 711:2 Purpose

Pursuant to RSA 31:102-A, the purpose of this chapter is to enact provisions for the licensure and regulation of peddlers and vendors.

CO 711:3 License required: Display of license

It shall be unlawful for a peddler or vendor, as defined in Definitions of this chapter, to engage in such business within the Town of Allenstown without obtaining a license from the Allenstown Police Department by application through the Chief of Police as hereinafter provided. Such license shall be displayed in a conspicuous place.

CO 711:4 Definitions

For purposes of this chapter, the following definitions shall apply:

- **Itinerant Vendors** – 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 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.
- **Motor Vehicle** – Any vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor, which is required to be licensed and registered by the Department of Motor Vehicles.
- **Peddler** – As defined in RSA 320:1, and includes any person, whether a resident of the Town of Allenstown or not, traveling by foot, wagon, motor vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products provisions, offering and exposing the same for sale from stock or by sample for future delivery or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, stand, motor vehicle, railroad car or other vehicle or conveyance. The word peddler shall include individual “hawker” and “huckster”. The term “peddler” shall not be construed to include an individual who displays his merchandise on a public sidewalk immediately adjacent to his place of business, provided that any merchandise so displayed shall not extend beyond one-third (1/3) of the width of said public sidewalk from the edge of his place of business.
- **Public Property** – Any town-owned or controlled property, including but not limited to streets and sidewalks.
- **Sell** – Includes any offer to sell or attempt to sell.
- **Stand** – Any table, showcase, bench, rack, pushcart, wagon or any other wheeled vehicle or devise which may be moved without the assistance of a motor and which is not required to be licensed and registered by the

Department of Motor Vehicles, used for the displaying, storing or transporting of articles offered for sale by a peddler.

- **Sub-vendor** – One who is operating under a vendor license held by another.
- **Temporary place of business** – Any public or quasi-public place including, but not limited to, a hotel, motel, rooming house, storeroom, building, part of a building, tent, parking lot, vacant lot, railroad car or trailer temporarily occupied for the purpose of making retail sales of goods to the public.
- **Vendor** – A peddler who on public property sells food, beverage or merchandise from a stand, motor vehicle or his person.

CO 711:5 Application

- A.** The application for a peddler or vendor's license shall include the following information:
1. The name, date of birth, home and business address of the applicant and the name, date of birth and address of the owner, if other than the applicant, and the name, date of birth and home address of any employees of the business and any stand and motor vehicle to be used in the operation of the business.
 2. A description of the type of food, beverage or merchandise to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant.
 3. A description and photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
 4. A certificate of insurance or other proof acceptable to the Chief of Police that the applicant has been issued an insurance policy by an insurance company; licensed to do business in the State of New Hampshire, protecting the licensee from all claims for damage to property and bodily injury, including death, which may arise from operation under or in conjunction with the license. Such policy shall provide coverage in an amount that the Chief of Police may deem necessary to cover personal and property damage.
 5. If any person(s) are hired after the issuance of the license their name, date of birth and home address must be added to the application prior to being employed under any permit issued.
- B.** In addition, an application for a vendor's license shall include:

1. A vendor from a motor vehicle shall describe, if less than the entire city, the general area in which he proposes to vend.
 2. A description of the proposed location of the vending business.
 3. A vendor from a motor vehicle who wishes to operate from a fixed location may request the hours and days of the week during which he wishes to operate. The Chief of Police shall have the authority to set the hours of operation.
- A. Both a Criminal and Motor Vehicle Record check will be completed on the applicant as part of the application process.

CO 711:6 Reasons for Decline of Application

- A. A license may be declined for any of the following reasons:
- False information provided by the applicant in seeking to obtain the license.
 - Evidence that the applicant or any employee or owner is insane, a sexual psychopath, or is or has been found guilty of assault upon others or whose conduct has been otherwise disorderly and is of such violent or offensive demeanor that to permit him/her to obtain such a license would constitute a threat to the peace or safety of the public or constitute threat to the peace of the public; or
 - That the applicant or any employee or owner is at large pending appeal for a conviction for a violation of the law involving extreme more turpitude.

CO 711:7 Place to place vending

- A. Vending activities subject to this ordinance may be conducted while going from place-to-place in the Town only by an individual who obtains a license issued under this section, remaining in one location no longer than 30 minutes.
- B. Any person seeking a license for vending from place-to-place shall apply to the Chief of Police on a form provided by the Town. The application shall include:
1. Name and home and business address of the applicant.
 2. Name and address of the owner of the vending business, if other than the applicant.

3. A description of the merchandise to be offered for sale.
4. A description of the proposed route(s) and hours of operation of the vending business, and the general area in which the vending is proposed; and
5. A description of any motor vehicle to be used in the vending business, including registration and title date, if applicable.

CO 711:8 Fees

Every applicant, before being granted a license, shall pay the following fees:

- A. The annual fee to operate as a peddler or vendor, in the Town of Allenstown, other than from a motor vehicle, shall be two hundred dollars (\$200) per vehicle.
- B. The Annual fee to operate as a peddler or vendor from a motor vehicle in the Town of Allenstown shall be two hundred dollars (\$200) per vehicle.
- C. A license to operate as a peddler or vendor in the Town of Allenstown on a temporary basis may be obtained upon payment of a fee of twenty dollars (\$20) per week for a maximum period not to exceed 12 weeks.
- D. Each annual license shall expire on midnight on May 31st of each year.
- E. Fees for applications for annual licenses received after September 1 of the licensing year shall be one-half (1/2) of the amounts set forth in 711:8 A and B above.

CO 711:9 Standards

- A. No permit or license for vending shall be granted if the vending operation is proposed to be conducted within the travel portion of any street unless the governmental entity having jurisdiction over such street shall have consented to the vending activity. Any person seeking to conduct such activities within the right of way of a State Highway shall, prior to commencing such activities, provide written authorization from an appropriate official of the State of New Hampshire authorizing such vending activities.

The Town of Allenstown reserves the right, based upon public safety, health, and welfare, to review any activity proposed within such areas, even where State authorization may have been obtained.

- B. Vending activities shall be conducted at such locations as to comply with all applicable setback requirements under the Land Use Planning Ordinance of the Town of Allenstown.

- C. A minimum of two off-street parking spaces shall be provided for any vending site unless otherwise provided by a site plan approved by the Chief of Police after review and approved by the Planning Board.
- D. Any vending operation subject to this Ordinance shall comply with all sign requirements under the Town of Allentown Sign Ordinance. In addition, signs are allowed only at vendor site and must be affixed to a tent or vending structure only. A single portable sign, not to exceed 12 square feet, may be allowed with prior approval for each separate property on which vending is allowed.
- E. Licenses or site vending permits shall not be granted for vending within any residential district.
- F. Vending activities, including set-up and clean up, shall not commence before 8:00 AM and shall be completed no later than 8:00 PM unless otherwise authorized in the permit or license.
- G. Adequate provision must be made by the licensee or permittee for waste and refuse disposal, including if required in the permit or license, sanitary facilities.
- H. Licenses and permits issued under this ordinance are not transferable.

CO 711:10 Exemptions

- A. Non-commercial vendors such as religious, charity, political and other social non-profit organizations are exempt from these provisions and are not required to apply for an exemption.
- B. Participants in any “street fair” as defined in RSA 31:100 (supp.), which may be authorized from time to time by the Board of Selectmen, shall be exempt from the requirements of 31:7 only. All other provisions of this chapter shall apply to said participants. Said participants shall be defined as those persons or business organizations, which have been listed and identified by the organization sponsoring any such “street fair”. Any list compiled by said organization for the purposes of this section shall be completed and placed on file in the office of the Chief of Police on or before the first day of the “street fair”.

CO 711:11 Violations and penalties

Any person, firm or corporation violating any provisions of this chapter shall be guilty of a violation and be subject to a fine of up to \$1000, for each violation.

CO 711:12 Revocation of License

Any license granted by the Town of Allentown may be revoked by the Town after hearing:

- a. Upon conviction of the licensee of any offense which in the judgment of the Town warrants such revocation or
- b. Upon the submission to the Town of evidence satisfactory to the Town that, during the term of the license, and acting under-cover thereof, the licensee has accepted or solicited money, otherwise that through a bona-fide sale or barter of goods, wares or merchandize or has in any manner solicited alms from the public, or
- c. Upon a finding by the Town that the applicant has willfully falsified his application for license or
- d. Upon consideration of evidence that the holder of said license is insane, a sexual psychopath, is or has been guilty of assault upon others or whose conduct has been otherwise disorderly and is of such violent or offensive demeanor that to permit him to retain such license would constitute a threat to the peace or safety of the public or
- e. That the holder of said license is at large pending appeal from a conviction for a violation of the law involving extreme moral turpitude.
- f. License may be suspended if the licensee or any employee or owner has been arrested and is awaiting trial or appeal for any offense conforming to (d) or (e).

CO 711:13 Appeals

Persons who are denied licenses or whose licenses have been suspended may appeal the decision by filing a written notice of appeal with the Board of Selectmen. The appeal must be filed 5 (five) working days after receipt of the notice of denial, suspension or revocation, with the Town Clerk. The Board of Selectmen shall hear such appeal at a subsequent meeting and shall render its decision in writing within 15 working days thereafter.