

Town of Hinsdale
P.O. Box 13, 11 Main Street
Hinsdale, NH 03451

Hawker, Peddler, Itinerant Vendor Ordinance

Section I – Declaration of Purpose -

The purpose of the adoption of this Ordinance is to promote the safe flow of vehicular and pedestrian traffic on public ways; prevent the incidence of fraud and other commercial crimes; reduce litter and pollution; and promote the health, safety, and welfare of the public.

Section II – Activity Defined –

This ordinance is enacted pursuant to the Hinsdale Town Hawker, Peddler, Itinerant Vendor Ordinance, to regulate any selling or display or offering for sale of food, beverages, merchandise or services of any kind, whether by a person or from a stand or motor vehicle or otherwise with the areas affected. These activities may be known or referred to as street vending, peddling, soliciting, hawking or itinerant vending.

Section III – Definitions

- A. “Merchandise” shall mean any food, beverage, clothing, utensils, wares, toys, tools, and other articles or items offered for sale to the public, but not including newspapers, magazines, pamphlets, and handbills.
- B. “Nonprofit Organization” shall mean any association or organization, which in accordance with United States Internal Service Regulations, distributes no part of its income to its members, directors, or officers and which is established for a civic, educational, cultural, religious, social, political, scientific, philanthropic, or charitable purpose.
- C. “Person” shall mean any natural person, corporation, partnership, association, club, or society or any other form of association or organization.
- D. “Vendor” shall mean any person participating in a street fair owning, operating, managing, or supervising a stand to sell merchandise or promote any nonprofit organization purpose.
- E. “Flea Market” shall mean any market, usually held outdoors, with more than one vendor offering merchandise to be sold or bartered.

Section IV – General Prohibition

Street vending, peddling, soliciting, hawking, and itinerant vending, as defined in RSA §320:1, RSA §321:1, RSA §31:102-a and RSA §31:102-b, is prohibited on the public ways and all properties within the Town of Hinsdale except as permitted by the Town pursuant to this Ordinance and only in compliance with the terms of this Ordinance.

Section V – Prohibited Conduct: Vendor

A vendor is a peddler who sells or offers to sell food, beverage or merchandise from a stand, motor vehicle or his person. A vendor shall not:

- A. Engage in vending which impedes pedestrian or vehicular traffic,
- B. Engage in vending which is not itinerant in nature and at no time park permanently or temporarily in a designated “No Parking” zone,
- C. Engage in vending which violates the standards and regulations of this Ordinance and the provisions of State statutes regulating hawkers, peddlers, and itinerant vendors,
- D. Create or cause to be created any human or mechanical noise which creates a nuisance or otherwise disturbs the peace and enjoyment in the surrounding area,
- E. Engage in vending at any time except during Daylight Saving Time between 8:00 a.m. – 8:00 p.m. and during Standard Time between 8:00 a.m. – 6:00 p.m.

Section VI – Exemptions from this Ordinance

- A. Any public event sponsored by a non-profit organization provided that any concessions or sales must be related to the event,
- B. Any event which takes place in Town recreation areas and is part of a Town sponsored event or has the express written permission of the Board of Selectmen,
- C. Any event which takes place on land owned or controlled by the public school system and has the express written permission of the school board.
- D. Any Vendor Permit issued prior to the adoption of this ordinance;
- E. Farm Roadside stands per RSA §21:34-a, III;
- F. Farmers Markets per RSA §21:34-a, V.

Section VII – Permitting Procedure for Vending

- A. A person either on his own behalf or on behalf of a group of persons, wishing to vend shall file with the Community Development Officer a vendor application containing:
 1. The name, address and phone number of the applicant;
 2. The nature and type of activity;
 3. The name and/or names of the business(es) covered under the permit;
 4. If vehicular in nature, the names of any individual that drives and a copy of their license;
 5. Copies of applicable NH State licenses and permissions;

6. All person(s) who will be actively engaged in vending activities, as detailed above, within the Town of Hinsdale borders, shall submit to a background check as approved by the U.S. Department of Justice Criminal Justice Information Law Unit (CJILU) and as detailed in Section VIII of this Ordinance.
 7. Any additional information of a reasonable nature that the Community Development Office feels is necessary to ensure the public's safety. Each permit will be reviewed by the Chief of Police, Highway Superintendent; Community Development Coordinator; Fire Chief; and Board of Selectmen.
- B. The owner of the Vending Permit Operation must have and be able to demonstrate appropriate liability insurance (acceptable proof to consist of certificate of insurance listing the Town of Hinsdale as the certificate holder) when using public property, and have all applicable NH State Permits.
 - C. The permit fee for a Town of Hinsdale Vendor Permit, valid within the calendar year issued will be \$50.00 for the first week; \$25.00 for each consecutive week; and/or \$200.00 for the year. The fee schedule may be amended from time to time by the resolution of the Hinsdale Board of Selectmen.

Section VIII – Background Investigation Procedure

- A. New Hampshire Revised Statutes Annotated (NHRSA), Section 31:102-a, and NHRSA § 31:102-b, pertaining to applicants for licensure as a hawker, peddler, or certain vendors
- B. An applicant, employee, or volunteer seeking to engage in any display or offering for sale of food, beverages, merchandise or services of any kind shall submit, if required, ~~to~~ two sets of his/her fingerprints taken by the Hinsdale Police Department to the Town of Hinsdale, along with appropriate fees.
- C. Upon receipt of the fingerprints and the appropriate fees, the Town of Hinsdale will transmit both sets of fingerprints, and appropriate fees to the NH State Police. The NH State Police will compare the subject's fingerprints against its criminal file and, [(1) if no disqualifying conduct is found therein (or) (2) if necessary], submit the fingerprints to the Federal Bureau of Investigation for a comparison with nationwide records. The results of the Federal Bureau of Investigation check will be returned to the NH State Police, which will disseminate the state and national results to the Town of Hinsdale.
- D. If an employer or organization is a private entity, the Town of Hinsdale, shall render a fitness determination based upon the results of the criminal background check and communicate its fitness determination to such private employer or organization. If an employer or organization is a public entity, the Town of Hinsdale, shall (1) render a fitness determination based upon the results of the criminal background check and communicate its fitness determination to such public entity or (2) disseminate the results of the criminal background check to the public entity for a fitness determination.

- E. In rendering a fitness determination, the Town of Hinsdale will decide whether the record subject has been convicted of [or is under pending indictment for] (a) a crime which bears upon his/her ability or fitness to serve in that capacity; (b) any felony or misdemeanor which involved force or threat of force, controlled substance, or was a sex-related offense; or (c) enumerated disqualifiers.
- F. A record subject may request and receive a copy of his/her criminal history record information from the Town of Hinsdale. Should the record subject seek to amend or correct his/her record, he/she must contact the NH State Police for a New Hampshire state record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

Section VIII – Official Action of the Permit

- A. The Community Development Coordinator or his/her designee shall determine whether the applicant has:
 - 1. Submitted a complete and accurate application;
 - 2. Met the provisions and purposes of the Ordinance; and
 - 3. Provided adequate arrangements to ensure the safety of the public persons covered under the permit, and the prevention from damage of public and private property has been provided.
- B. Upon consideration of all items in section VII, the Hinsdale Board of Selectmen has the finding by the Town Section VIII(A) above. In either case, a decision must be made not later than fourteen (14) working days (not including Friday) after receipt of the application and background results. If the application is disapproved and the permit is denied, the Community Development Coordinator shall provide written reasons to the applicant as the time of notification of disapproval of the application and denial of permit. Permit applications may be obtained during normal business hours from the Selectmen's Office or Community Development Office.
- C. The Board of Selectmen may amend or revoke a permit if it appears that the arrangements contained in the permit will no longer prevent injury to a person or property due to a change in circumstances under which the permit for possession was granted.

Section X – Appeal Process

- A. A person may appeal to the Board of Selectmen the denial of a permit by filing a written notice within fourteen (14) working days of denial of the permit. The Board of Selectmen shall forthwith consider the appeal at a hearing at which the applicant is present. The Board of Selectmen may affirm or reverse the decision, or attach such additional conditions to the permit as will, in their best judgement, protect the public safety and persons covered under the permit, and the prevention from damage of public and private property.

Section XI – Enforcement

- A. A person who violates any provision of this Ordinance shall be fined not more than \$500.00. The fine must be paid within 14 business days from date of issuance or the permit will be revoked. A second violation will result in revocation of the permit.
- B. Upon the neglect or failure of a person responsible for a sidewalk display or vending cart to promptly comply with an order to remove the same, a police officer may remove it or cause it to be removed and the Town may recover the expense of such removal from the person responsible.
- C. If any section, sentence, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a decree or decision of any court of competent jurisdiction, such decree or decision shall not affect or impair the validity of any other section or remaining portion of this Ordinance.

Adopted/Reaffirmed: 05/01/2017
Date

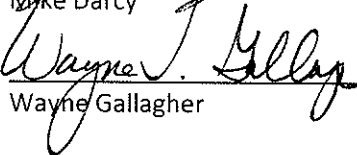
Town of Hinsdale
By Its Selectmen



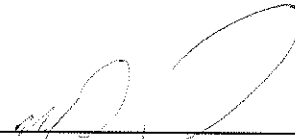
Steven Diorio, Chairman



Mike Darcy



Wayne Gallagher



Mike McCosker



Bernie Rideout

Amended/Reaffirmed 5/1/2017