

ORDINANCE REGULATING HAWKERS, PEDDLERS AND ITINERANT VENDORS

In accordance with and under the authority of the New Hampshire Revised Statutes Annotated, Chapter 31:102-a, Chapter 320 and Chapter 321 and Chapter XI of the Town Ordinances adopted on June 13, 1977, authorizing the Board of Selectmen to act as the Licensing Board of the Town of Belmont, the following Ordinance is adopted for the regulation of Hawkers, Peddlers and Vendors operating within the Town of Belmont.

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 I **Definitions** The terms used in this ordinance shall be construed as follows unless a different meaning is clearly apparent from the language or context:

A. “**Itinerant Vendors**” mean all persons, 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 \$500.00 from stock or by samples for future delivery and who, for the purpose of carrying on such business, hire or occupy a temporary place of business. This definition shall not apply to the following:

I. Sales made to dealers by commercial travelers or selling agents.

- II. Hawkers and peddlers defined herein.
- III. Any person selling the product of his own labor or the labor of his family or the product of his own farm or the one he tills.
- IV. Any person who operates a permanent business in this state who occupies temporary premises, and prominently displays the permanent business name and permanent address while business is conducted from a temporary premises and while that person is selling the same product as is sold at the permanent business.
- V. Any nonprofit corporation, community chest, fund or foundation organized and operated exclusively for religious or charitable, scientific, literary, or educational purposes.
- VI. Any person conducting business in any industry or association trade show.
- VII. Any person who sells exclusively antiques, used goods or vintage items.

B. “Hawker” and “Peddler” shall mean and include any person 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 vehicles; or
- II. travels from town to town or place to place in the same town, offering to perform a personal service 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 buildings; 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.
- IV. Provisions of this definition pertaining to hawkers and peddlers shall not apply to any person selling the product of his own labor or the labor of his family or a product of his own farm or the one he tills, nor to any person conducting sales of personal household goods on his own property, nor to itinerant vendors as defined herein.

C. “Temporary Place of Business” means any public or any quasi public place including, but not limited to, a hotel, motel, rooming house, storeroom, building,

part of a building, tent, vacant lot, parking lot, railroad car, trailer temporarily occupied for the purpose of making retail sales or goods to the public, portion of any property, lot or parcel adjacent to a public way which is under lease or license temporarily from the owner thereof.

D. "Person" shall mean firm, corporation, association, club, merchant or other similar occupation. It shall mean the singular as well as the plural.

E. "Street, Highway" shall be as defined by RSA 259:125.

Section II **Standards** In granting any license authorized pursuant to this ordinance, the Licensing Board 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:

- A. All licenses shall be for specific times, dates and locations which shall be set forth in writing by the Licensing Board on each license issued.
- B. Every hawker, peddler and itinerant vendor, before making any sales of goods, wares or merchandise in the Town, shall apply to the Board of Selectmen for a license, and shall accompany such application with a fee of \$50.00. The license application fee shall be made to the Town of Belmont and a record of the payment of the license application fee shall be kept on file in the Selectmen's Office. If, after review of said application, it appears that the applicant is a person of good repute as to morals and integrity and he/she is a person of responsibility and business acumen, the Board of Selectmen may issue a permit to the applicant, which permit shall remain in force and effect for not more than thirty (30) calendar days from the day of approval.
- C. No activity shall take place within any travel portions of a street, or highway, and no materials, goods, or other items shall be placed or located within the travel portions of any street or highway.
- D. No activity shall be conducted upon any town sidewalk so as to hinder or interfere with the normal and usual pedestrian travel and use. No activity including but not limited to the congregation of customers and sales transactions to customers, shall take place whatsoever within ten feet (10') of the pavement of any traveled street or highway.
- E. No activity including but not limited to the congregation of customers and sales transactions to customers shall be conducted within three feet (3') of any entrance or exit to any occupied building or structure unless written approval by the owner whereof has first been obtained and a copy of said approval has first been delivered to the Licensing Board.

- F. No activity shall be conducted within ten feet (10') of any other lawful activity being conducted upon town property or interfere with such activity in any manner.
- G. All activities where minors are employed shall be subject to all statutes and administrative regulations dealing with the employment of minors.
- H. This ordinance shall not apply to fraternities, societies, churches or any group seeking subscriptions or donations from their own members.
- I. Any activity proposed to take place on land or buildings of someone other than the applicant shall be accompanied by written permission of the land or building owner.
- J. All applications shall be submitted to the Licensing Board at least seven (7) days prior to the activity for which the license is requested. The time limits stated herein shall exclude Sundays and holidays. Any applications received by the Licensing Board within seven (7) days of the activity may be denied by the Board in its discretion, however, the Board may charge an additional fee for any applications submitted within seven (7) days of the activity in the event such application is approved by the Board, which fee shall not be more than two (2) times the normal fee.
- K. No person shall orally solicit for himself, others, or conduct any business of any kind upon the streets and highways of the Town of Belmont. No person shall stop any motor vehicle upon the streets and highways within the Town of Belmont for the purpose of soliciting business of any kind.
- L. Any request to solicit business in or upon the public parks of the Town shall require the prior written permission of the Recreation Commission before a license will be issued.
- M. Photographic identification badges may be required by the Licensing Board as a condition of application approval. The Board may require the badges to be worn by all participants of any licensed activity as a condition of any application approval.
- N. Proposed activities shall be temporary in nature and shall not include the erection or placement of structures or other improvements. Such development would require review and approval under the Town of Belmont Site Plan Review Regulations.

Section III Hawker, Peddler, Vendor No hawker, peddler or itinerant vendor shall cry, sell, barter or trade merchandise, fruits, vegetables, or other commodities without special permission by license. This section shall not prevent the selling of newspapers by crying or selling the same.

Section IV **Public Property** No person, charitable organization, hawker, or peddler, or itinerant vendor shall sell, dispose of, advertise or display any goods, items, or solicit by subscription card or otherwise, any order for such goods, or the pledge of any money, or donations for any purpose, in or upon any public parks, sidewalks, property or commons in the Town of Belmont for any purpose, charitable, benevolent, or otherwise, without first having obtained a license to do so from the Licensing Board.

Section V **Loud Speakers** No person shall operate, conduct or use, or cause to be so operated, conducted or used an outside speaker of any nature, or other sound equipment of any kind whatsoever within the limits of the Town of Belmont for advertising purposes, or for the purpose of attracting the attention of the public, unless the said person shall first secure a license from the Licensing Board. This provision shall not apply to the operation of any radio broadcasting station operating by virtue of a license from the Federal Communications Commission or loudspeakers or sound equipment operated exclusively within any building or other permanent structure.

Section VI **Zoning and Other Regulations** An Applicant shall comply with all zoning requirements in the Town of Belmont and where there is a conflict of these provisions with the Zoning Ordinance, the Zoning Ordinance shall control.

Section VII **Authorized Locations** Hawking, Peddling and Vending under these regulations is restricted to the Commercial, Industrial & Village Zones of the Town of Belmont and shall comply with the Zoning Ordinance and Zoning Use Tables as amended.

Section VIII **Fees** The Licensing Board hereby establishes fees to be paid to the Town of Belmont for all licenses issued under this ordinance:

1. \$50.00 for the first week and \$25.00 for each week thereafter, so long as such weeks are consecutive. License to remain in force and effect for not more than 30 calendar days from date of approval.
2. The issuing of more than one (1) license for the same purpose in a twelve (12) month period will be at the discretion of the Board of Selectmen.

Section IX **License Revocation** In addition, any hawker, peddler or itinerant vendor, who sells, offers or exposes for sale, any goods, wares or merchandise in such a manner in the opinion of the Chief of Police and Board of Selectmen, 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 Belmont. In locations where hawking, peddling or itinerant vending, 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 Belmont and shall be the liability of the property owner of the site of the hawking, peddling or itinerant vending, activity.

Section X **Penalties and Violations** Any person who fails to obtain a license as herein required or who shall be guilty of a violation, the penalty for which shall be five hundred dollars (\$500.00). Such person shall be deemed to be guilty of a separate offense for each and every day during a portion of which any violation of this ordinance is committed. The violation of any condition imposed by the Board upon a license shall result in the termination of the license. Notice of termination shall be given to the license holder in writing by the Board.

Any property owner who allows an unpermitted hawker, peddler or itinerant vendor to operate on his private property shall be subject to a five hundred dollar (\$500.00) fine for each day the unpermitted hawker, peddler or itinerant vendor is allowed to operate on his property.

Adopted this _____ day of _____ in the year _____.

Belmont Board of Selectmen

