

ITINERANT VENDOR, HAWKER AND PEDDLER ORDINANCE

ENABLING LEGISLATION

RSA 31:102-A IS THE ENABLING LEGISLATION. "Itinerant Vendor, Hawker and Peddler. 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, hawker and 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 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:

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

DEFINITIONS

For the purposes of this ordinance, the word itinerant vendor means any person, (as defined by RSA 358-A:1), either principal or agent, including any person whose principal place of business is not in this state, who engages 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 sample for future delivery, and who, for the purpose of carrying on such business, hires or occupies a temporary place [of] business. The term "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, parking lot or trailer temporarily occupied for the purpose of making retail sales of goods to the public. For example: a rug merchant or furniture/consumer electronics sales out of a trailer.

For the purposes of this ordinance, the words "hawker and peddler" shall mean all persons (as defined by RSA 358-A:1), and include any person either principal or agent, who goes 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 or mode of transportation. A "hawker" or "peddler" shall include any person operating from a fixed location such as a stand for a temporary period of time. For example: food truck, hot dog vendor, pest control services, magazine sales, or vinyl siding vendor

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 Itinerant Vendor, before making any sale of goods, wares or merchandise in the Town, shall apply to the Board of Selectmen for a permit, and shall accompany such application with a fee of \$50.00. The permit application fee shall be made to the Town of Pelham and a record of the payment of the permit application fee shall be kept on file in the Selectmen's office.

Additionally, every Itinerant Vendor, before making any sale of goods, wares, or merchandise in the Town, as per RSA 31:102-b, shall submit to a state criminal records check. The applicant shall submit to the Town a public criminal history record information authorization form and fee, as provided by the division of state police, which authorizes the release of the person's public criminal history record information."

Upon review of said application, the Chairman of the Board of Selectmen may issue a permit to the applicant, said permit shall remain in force and effect for the calendar year in which the application was submitted.

SECTION 2

A Town of Pelham Itinerant Vendor Permit along with the stated permit fee shall be required notwithstanding the fact that goods, wares, or merchandise 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 co-sign the application.

SECTION 3

State Law reference – municipal authority to require itinerant vendor's permit, RSA 31:102-a.

SECTION 4

Every Hawker or Peddler, before making any sale of goods, wares or merchandise in the Town, shall apply to the Board of Selectmen for a permit, and shall accompany such application with a fee of \$50.00. The permit application fee shall be made to the Town of Pelham and a record of the payment of the permit application fee shall be kept on file in the Selectmen's Office.

Additionally, every Hawker or Peddler, before making any sale of goods, wares or merchandise in the Town, as per RSA 31:102-b, shall submit to a state criminal records check. The applicant shall submit to the Town a public criminal history record information authorization form and fee, as provided by the division of state police, which authorizes the release of the person's public criminal history record information."

Upon review of said application, the Chairman of the Board of Selectmen may issue a permit to the applicant, said permit shall remain in force and effect for the calendar year in which the application was submitted.

SECTION 5

A Town of Pelham Hawker and Peddler Permit along with the stated permit fee shall be required notwithstanding the fact that goods, wares, or merchandise, are to be sold or offered for sale from any private property within the Town of Pelham. In the case of any such sale or offer for sale from private property where the Hawker or Peddler is not the landowner, the landowner of the property shall co- sign the application. No permit shall be issued unless and until all applicable zoning and site plan requirements are met.

SECTION 6

State Law reference - municipal authority to require Hawker and Peddler permit, RSA 31:102-a.

SECTION 7

In addition, any Itinerant Vendor, Hawker or Peddler who sells, offers, or exposes for sale, any goods, wares, or merchandise 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 Pelham.

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 Pelham and shall be the liability of the property owner of the site of the itinerant vending, hawking or peddling activity.

SECTION 8

Food Trucks and Other Mobile Peddlers

Any Food Trucks or mobile food peddler must possess a valid Town of Pelham Hawkers and Peddlers permit and provide to the Town of Pelham a valid "Mobile Food Unit" License issued by the State of New Hampshire Department of Health and Human Services. <https://www.dhhs.nh.gov/documents/application-annual-mobile-food-unit-license>

Safety Requirements. All food trucks and other mobile peddlers shall comply with the following requirements:

1. All equipment, merchandise and utensils installed or stored in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn. To the extent applicable, a safety knife holder shall be provided to avoid loose storage of knives.
2. Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall be installed so as to be accessible only from outside the vehicle.
3. Identification. All food trucks and other mobile peddlers operating in the Town of Pelham are required to have lettering on both sides and rear of their vehicle(s), identifying the name of the business and a valid telephone number.
4. Private Property: Food trucks selling or otherwise offering food and beverages to the general public on private property shall be required to comply with the following requirements if operating for more than thirty (30) minutes at a location:
 - A. Food trucks shall provide notice to the Board of Selectmen of the location, date and time it will be operating on private property.
 - B. Food trucks shall only be permitted in nonresidential districts.
 - C. Food trucks must be located at least fifty (50) feet from a residential zoning district.
 - D. Food trucks seeking to vend on private property must receive written permission from the property owner.
 - E. Food trucks shall not store, park, or leave any stand overnight at the permitted location.
 - F. Food trucks are only permitted to operate between the hours of 9:00 a.m. and 7:00 p.m.
 - G. Food trucks shall comply with all rules and regulations required by the Board of Selectmen to address safety, traffic and access considerations.
 - H. There shall be no cooking equipment or other accessories outside the mobile food unit. Everything that is used on the mobile food unit shall be an integral part of the unit. All storage tanks shall be part of the mobile food unit.
 - I. All food items that require refrigeration shall be mechanically refrigerated while stored within the mobile food unit. Ice is only permissible for push carts and for other mobile units when storing customer beverages that do not require refrigeration.
 - J. Mobile food trucks shall provide adequate receptacles for the disposal of customer trash which are to be removed when truck moves.
5. If food trucks are not specifically addressed in the zoning and/or site plan requirements, the request for food trucks shall only be permitted if approved by the Board of Selectmen and Planning Director or Zoning Administrator based on a review of use (including impacts to the neighborhood), safety, traffic, landscaping, buffer, and access considerations for the property. The Planning Director is authorized to require site plan review before the Planning Board for proposals with impacts that are anticipated to be significant with regard to traffic, abutters, or the neighborhood.

SECTION 9

The provisions of this section shall not apply to any non-profit corporation duly organized under RSA Chapter 292, churches and other charitable organizations provided, that any officer of such

corporation supplies the Selectmen's office upon request with official proof of such organization located in the Town of Pelham, along with the dates and times of the proposed activity.

This ordinance does not apply to farm stands or farmers markets as defined in RSA 21 :34-a.

SECTION 10

Special conditions for frozen confection vending.

Hawking and peddling of frozen confections are allowed in residential areas, however it shall not be conducted in the traveled portion of any public way and shall abide by all parking restrictions. To ensure public safety, they shall only serve frozen confections from the curb-side. Their vehicle shall be clearly marked to indicate their product, name of company and valid telephone number. Said vehicle shall have all safety equipment as recommended by the police chief. The license shall be posted in such a place as to be in plain view of all customers.

SECTION 11

Any Town of Pelham Itinerant Vendor Permit or Town of Pelham Hawker and Peddler Permit granted by the Chairman of the Board of Selectmen may be revoked by the Board of Selectmen by vote of the board at a public meeting for cause sufficient in law.

SECTION 12

Every Town of Pelham Itinerant Vendor Permit or Town of Pelham Hawker and Peddler Permit shall be exhibited by the permittee on his/her person in full public view. Agents of the permittee shall carry a copy of said permit which shall be available at all times.

SECTION 13

Nothing in this article shall be construed as conflicting with any license duly issued under the laws of the State of New Hampshire.

SECTION 14

All applicants who have been granted a permit offered under this ordinance will adhere to the following restrictions/regulations:

1. Hours of operation will be 9:00am-7:00pm
2. Hours of operation will be extended for Town sanctioned events to one half hour past the event completion time. Examples would include football games, movie nights on the green, etc.
3. Anything and everything pertaining to the business operating under the granted permit(s) will not be allowed to remain on site overnight. Examples include, but not limited to vehicles, tents, trash, signs, stands, etc. Exceptions can be granted for Town sanctioned events (Independence Day Celebrations, firework displays, Old Home Day, etc.)

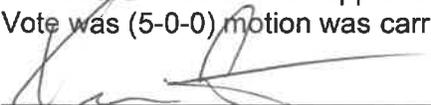
PENALTY

Any itinerant vendor, hawker or peddler who deliberately ignores posted signage prohibiting soliciting and/or trespassing is subject to revocation of their respective Town permit by the Chairman of the Board of Selectmen.

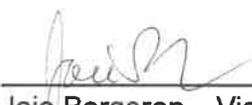
Any itinerant vendor, hawker or peddler operating without benefit of a Town of Pelham permit shall be subject to trespassing charges and confiscation of his wares, goods, etc. and charged with a \$500 fine for each occurrence of selling of goods or wares as defined above.

Any property owner who allows an unpermitted itinerant vendor, hawker, or peddler to operate on his/her 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/her property.

The Board of Selectmen approved this revised Ordinance per the January 2, 2024 meeting. Vote was (5-0-0) motion was carried.



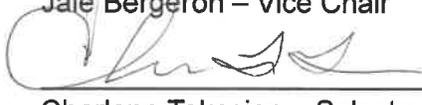
Kevin Cote – Chair



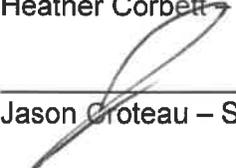
Jaie Bergeron – Vice Chair



Heather Corbett – Selectman



Charlene Takesian – Selectman



Jason Croteau – Selectman



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