



TOWN OF PELHAM

Office of the Selectmen

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ITINERANT VENDORS, HAWKERS AND PEDDLERS ORDINANCE Adopted 6 June 2000

ENABLING LEGISLATION

RSA 31:102-A IS THE ENABLING LEGISLATION. "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 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:

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

DEFINITIONS

RSA 321:1 Defined. For the purposes of this chapter, the words "itinerant vendors" mean 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, 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, hire, or occupy a temporary place of business. A "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 or trailer temporarily occupied for the purpose of making retail sales of goods to the public.

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. An "itinerant vendor" shall be any person either principal or agent who engages in a temporary or transient business in the Town of Pelham selling goods, wares or merchandise, either in one locality or in traveling from place to place. An "itinerant vendor" shall include any person operating from a fixed location such as a stand for a temporary period of time. This ordinance does not apply to farm stands as defined in RSA 21:34-a.

SECTION 2. 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 and show the appropriate State license and proof of payment of the State licensing fee. 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. 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, and shall be renewable every thirty (30) days thereafter at a renewal fee of \$25.00 each thirty (30) days.

SECTION 3. 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 4. State Law reference – municipal authority to require itinerant vendor's permit, RSA 31:102-a

SECTION 5. A "hawker" or "peddler" shall mean 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 on or from any animal or vehicle. A "hawker" or "peddler" shall include any person operating from a fixed location such as stand for a temporary period of time. This ordinance does not apply to farm stands as defined in RSA 21:34-a.

SECTION 6. Every hawker or peddler, before making any sale of any goods, wares or merchandise, shall apply to the Board of Selectmen for a town permit, and shall accompany such application with a permit fee of \$50.00, which permit fee payment shall be made to the Town of Pelham and record of such fee payment shall be kept on file at the Selectmen's office. In addition, every hawker or peddler shall accompany application to the Town with the appropriate State license and proof of payment of the State licensing fee. 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, and shall be renewable every thirty (30) days thereafter at a renewal fee of \$25.00 each thirty (30) days.

SECTION 7. 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.

SECTION 8. 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. The Chief of Police shall promulgate a list of locations in the Town of Pelham where any itinerant vending, hawking or peddling shall be expressly prohibited. 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 9. The provisions of this section shall not apply to any non-profit corporation duly organized under RSA Chapter 292 and 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.

SECTION 10. The Town of Pelham Itinerant Vendor Permits and Town of Pelham Hawker and Peddler's Permits shall bear the date on which they are issued and unless sooner revoked, shall expire on the thirty-first day after the date of the issuance and shall be renewable every thirty (30) days thereafter.

SECTION 11. Any Town of Pelham Itinerant Vendor Permit or Town of Pelham Hawker and Peddler Permit granted by the Board of Selectmen may be revoked by the Board of Selectmen at any time 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.

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.

PENALTY

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 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 property.