

TOWN OF LINCOLN, NEW HAMPSHIRE

Street and Sidewalk Vendors Ordinance

Section 1. AUTHORITY. This ordinance is adopted by the Board of the Town of Selectmen of the Town of Lincoln under the authority granted by RSA 31:102-a.

Section 2. FINDINGS. The Selectmen find and declare that:

- A. The primary purpose of public streets and sidewalks is to facilitate vehicular and pedestrian traffic.
- B. Responsible regulation of street and sidewalk vending is necessary to protect the public health, safety, and welfare.
- C. The regulations contained in this ordinance do not prohibit pure speech by religious organizations, but merely regulate the activities of organizations and activities that are commercial in nature.

Section 3. DEFINITIONS. In this ordinance:

- A. **Selectmen** means the Lincoln Board of Selectmen.
- B. **Vendor** means any person engaged in selling, or offering for sale, food, beverage, merchandise, or services from a stand or motor vehicle, or from his person, on the streets or sidewalks of the Town or from temporary or transient sales locations within the Town or while going from place to place within the Town, and includes any person defined as a hawker, peddler or itinerant vendor under RSA 320 or 321.

Section 4. COMPLIANCE REQUIRED.

- A. No person may sell, offer for sale, or take orders for services or merchandise from any temporary sales location or while going from place to place within the Town without:
 - 1. Possessing a current, valid State permit when required by RSA 320 or 321, or any other law.

2. Possessing a current, valid local license when required under this Ordinance.
 3. Complying with all provisions of this Ordinance and other Town ordinances and all lawful regulations adopted by the Selectmen, Police Chief, Health Officer, or other Town officials.
- B. This ordinance shall not be deemed to require permits for deliveries of goods, produce, or wares made in the ordinary course of business by entities granted permits under this ordinance or in connection with a transaction which is not subject to this ordinance.

Section 5. APPLICATION, ISSUANCE, CONDITIONS AND COMPLIANCE.

A. **APPLICATION.** Any person seeking a permit under this ordinance shall apply therefore to the Police Department on a form provided by the Town. The application shall include:

1. Name, home and business address of the applicant:
2. Name and address of the owner of the vending business, if other than applicant:
3. Name and address of the owner of the property on which the vending operation is to occur if it is different from that of the applicant, including the property owner's signature as co-applicant:
4. A description of the merchandise or services to be sold:
5. A description of the proposed location and hours of operation of the vending business, and the general area in which the vending is proposed, including a current list of abutters; and
6. A description of any motor vehicle or stand to be used in the vending business, including registration data, if applicable.

B. **ISSUANCE.** Not later than fifteen days after the filling of an application, the Police Department shall submit a written report and recommendation to the Selectmen. The Selectmen may conduct such further investigation or fact finding as they deem appropriate, including if they so determine, opportunity for public notice and hearing on the application. The Selectmen shall act on the application

within thirty days after receipt of the Police Department's recommendation and shall notify the applicant of their decision on the issuance or denial of the permit. In the case of a denial, the Selectmen shall indicate the basis for the denial, which may include, without restriction because of enumeration:

1. Fraud or misrepresentation contained in the application:
2. Over-intensive vending activities within the area or the time proposed in the application:
3. Inadequate information as to the nature of the proposed business or identity of the applicant:
4. The nature of the area proposed for the vending is inappropriate due to its residential character, traffic, access, or other factors: or
5. Such other reasons as the Selectmen may determine necessary for the public health, safety, and welfare.

C. **CONDITIONS.** If the Selectmen issue a permit, they may restrict operation of the vending business to particular area, particular times or a particular manner of operation, or any combination of the foregoing or include such other conditions as may be required in the interest of public health, safety and convenience.

D. **COMPLIANCE.** Any vendor granted a permit under this ordinance shall at all times operate the vending business in a manner which will not interfere with the public safety on the streets and sidewalks and shall operate the business in such a manner as to create minimal inconvenience to the public. A permittee shall operate a business only from such places and at such times as are authorized in the permit.

Section 6. STANDARDS.

A. No permit for vending shall be granted if the vending operation is proposed to be conducted within the travelled portion of any street over which the Selectmen have jurisdiction.

B. This ordinance shall not be construed as regulating vending activities within the travelled portion of highways that are subject to the jurisdiction of the State of

New Hampshire. Such construction of this ordinance however shall not be construed as authorization to engage in such activities without permit or authorization. Any person seeking to conduct vending within the right of way of a state highway shall, prior to commencing with such activities, provide written authorization from an appropriate official of the State of New Hampshire authorizing such vending activities. The Selectmen reserve the right, based upon public safety, health and welfare, to review any such activity proposed within such areas, even where state authorization may have been obtained.

C. The 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 Lincoln.

D. Off-street parking shall be provided unless exempted by the Selectmen. Off-street parking shall be provided for any employee of the operation and also a minimum of five spaces unless otherwise allowed by the Selectmen.

E. Any vending operation subject to this ordinance shall comply with all sign requirements under the Town of Lincoln Sign Ordinance.

F. Licenses shall not be granted for vending within the Village Residential District.

Section 7. FEES.

A. An application fee in the amount of \$50.00 shall be submitted with any application for a permit under this ordinance. Said application fee shall not be refundable regardless of whether a permit is subsequently issued.

B. If an application for a permit is approved, the applicant, prior to issuance of the permit shall pay the following fees:

1. For each vending location included within the permit, a fee based upon the length of time for which vending is authorized as follows:

- a. For a period from one day to thirty days, \$150.00 dollars
- b. For thirty-one days to sixty days, \$275.00 dollars
- c. For sixty-one to ninety days, \$400.00 dollars
- d. Over ninety days, \$500.00 dollars

Section 8. RENEWAL. A permit shall be valid for such a period of time as may be specified by the Selectmen. Renewal shall be subject to the same application procedure as is specified for an initial permit unless the Selectmen, in issuing th permit, authorize renewal on other conditions. An applicant for renewal shall not be required to pay a new application fee if the application for renewal is made within sixty days after expiration of the previous permit unless there has been a substantial change in the nature of the application as determined by the Police Department. Permit fees shall be paid as specified in Section 7 (B).

Section 9. EXCEPTIONS AND WAIVERS

A. **EXCEPTIONS.** Charitable and religious solicitations not involving commercial transactions and for limited time periods shall be exempt from this ordinance, provided advanced notice of such solicitations is given to the Police Department. The Selectmen may allow such groups to engage in limited commercial transactions for a gain related to their purposes for such time and at such locations as the Selectmen shall determine.

B. **CHARITABLE EVENTS.** Permits shall not be required fopr yard sales, auctions, and fund-raising events by not-for-profit organizations and charitable groups if the event will run for no more than three (3) consecutive days or for more that twelve (12) days within and twelve month period.

C. **INDIVIDUAL YARD SALES.** Individuals holding bona fide yard sals on their own property not more then three days at any time and not more than twelve days in any twelve month period are exempt from permitting under this ordinance.

D. **WAIVERS.** For good cause shown, the Selectmen may waive permit requirements, fees or any other provisions of this chapter.

Section 10. APPEALS. If the Selectmen deny a permit under this ordinance, it shall give notice of the grounds therefore to the applicant. An applicant may request the

Selectmen to hold a rehearing if he alleges mistake or error, or if additional facts should be brought to their attention.

Section 11. NON-COMPLIANCE. Whoever violates the provisions of this chapter shall be punished by a fine, not to exceed one hundred dollars (\$100.00) on conviction of his first offense hereof; and on each subsequent conviction, such person shall be punished by a fine of not less or more than one hundred dollars (\$100.00) or such other penalty as may be authorized by law.

Section 12. EFFECTIVE DATE. This ordinance shall become effective on December 1, 1988.

ORDINANCE REVIEWED AND APPROVED ON THIS _____ DAY OF _____,

By the Board of Selectmen of the
Town of Lincoln, New Hampshire

