

CHAPTER 56

HAWKERS, PEDDLERS & ITINERATE VENDORS

Adopted and effective May 19, 2009.

~56-1 AUTHORITY

In accordance with the provisions of New Hampshire Revised Statutes Annotated, Chapter 31, Section 102-a and the provisions of RSA 320 and RSA 321 the following Ordinance is ordained to protect the health and welfare the citizens of the Town of Henniker, NH through the legal regulation of persons seeking to hawk, peddle and vend within the Town of Henniker.

~56-2 PURPOSE

To provide for the regulation of individuals who seek to hawk, peddle and vend within the limits of the Town of Henniker in order to provide for the public welfare, to keep citizens secure in their property and to provide for the public safety.

~56-3 DEFINITIONS

A. Hawker and Peddler

The terms "hawker" and "peddler" shall mean and include any person, as defined in RSA 358-A: 1, either principal or agent, who: 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 vehicle; or travels from town to town, or place to place in the same town, offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs or improvements, including contracts for the replacement or installation of siding on any residence or building; or keeps a regular place of business, upon during business hours at the same location, but who offers for sale or sells and delivers, personally or through agents, at a place other than his regular place of business, goods, wares or merchandise.

B. Itinerant Vendor

The words "itinerant vendor" mean all persons, as defined in 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, 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, 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.

~56-3 LICENSE REQUIRED

All itinerant vendors, hawkers, peddlers, traders, merchants, or other persons, who sell, offer to sell, or take orders for merchandise from temporary or transient sales locations within the Town of Henniker or who go from place to place within the Town for such purposes, as defined in RSA

31: 102-a, RSA 320 an RSA 321, must before engaging in such activities apply to the Board of Selectmen for and receive a license prior to the sale of or the distribution of items or goods. Before the issuance of a license hereunder the Board of Selectmen shall require the applicant for a license to provide the Board with a completed criminal background investigation and a motor vehicle record provided by the applicant in writing from the State of New Hampshire and the applicant's State of residence.

~56-4 STATE LICENSE A PREREQUISITE TO TOWN LICENSE

The applicant for a license hereunder must first obtain and produce a copy of a current and valid hawkers, peddlers and vendors license issued by the New Hampshire Secretary of State prior to applying for a license from the Town of Henniker.

~56-5 ISSUANCE OF LICENSE

The Board of Selectmen may issue such license under conditions and restrictions as to time and place as they deem necessary for public convenience and safety.

~55-6 REVOCATION OF LICENSE

The Board of Selectmen may revoke or suspend for a definite or indefinite period of time a license issued hereunder for any violation of this Ordinance or upon the recommendation of the Chief of Police when the license holder has been charged with or convicted for any violation of State or Federal Laws or this Ordinance. The revocation of a license issued hereunder shall not entitle the holder of the license to a refund of all or any portion of any fees or charges that were paid to obtain such license.

~56-7 LICENSE EXPIRATION

All licenses issued by the Board of Selectmen hereunder shall expire on the 31st day of December following its issuance.

~56-8 STATIONARY SALES, SALES PROHIBITED IN CERTAIN AREAS

No sales or activities otherwise authorized by the issuance of a license hereunder shall occur upon or adjacent to the following public ways in the Town of Henniker:

- Main Street
- Old Concord Road
- Maple Street
- Western Avenue
- Bridge Street
- Depot Hill Road
- Circle Street
- Grove Street
- Ramsdell Road

~56-9 HOURS OF OPERATION

No sales or activities authorized by the issuance of a license hereunder shall occur within the Town of Henniker during the following periods of time:

- From January 1st through May 14th of each year from 6:00 PM to 9:00 AM
- From May 15th through October 15th of each year from 9:00 PM to 9:00 AM
- From October 16th through December 31st of each year from 6:00 PM to 9:00 AM

~56-1 PROHIBITED CONDUCT

The license holder shall not:

- A. Conduct any activities within 1,000 feet of the grounds of the Henniker Community School between one hour prior to the start of the school day and one hour after dismissal at the end of the school day.
- B. Conduct any activities within 100 feet on the same street as any building that is a place of public assembly while such building is in use.
- C. Conduct any activities on any street or sidewalk where such activities are otherwise prohibited.
- D. Leave any stand or motor vehicle unattended.
- E. Store, park, or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place in conformance with Town and State parking Ordinances, Laws or regulations.
- F. Sell food or beverages for immediate consumption unless he or she has available for public use his own litter receptacle which is available for his or her patrons' use.
- G. Leave any location without first picking up, removing and properly disposing all trash or refuse remaining from sales made by him or her.
- H. Placement of items under or next to the vehicle, or stand, not relating to the operations conducted as listed on license application. Such items have not been described and permitted in his application.
- I. Set up, maintain or permit the use of any table, crate, carton, rack, sign or other device to increase the selling or display capacity of his stand or motor vehicle, where such items have not been described and permitted in his application.
- J. Solicit or conduct business with persons in motor vehicles.
- K. Sell or distribute anything other than that which is described and permitted in his license or application.
- L. Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, and radio sound amplifier or similar device to attract the attention of other persons.
- M. Hawk, peddle, vend, sell or conduct activities under a license issued hereunder without comprehensive general liability insurance coverage approved by the Town at the time of licensing and which complies with the provisions of this Ordinance.
- N. Operate under a license issued hereunder without a fire extinguisher of a type approved by the Fire Chief of the Town of Henniker, or his designee, if the licensee utilizes heat-generating equipment.

~56-11 CONDUCT OR BUSINESSES NOT REGULATED BY THIS ORDINANCE

The following activities shall be specifically excluded from licensing hereunder:

- A. A candidate for public office in the process of obtaining signatures on nomination papers to place the candidate's name on the ballot.
- B. Persons seeking to obtain signatures on nomination papers to have a candidates name placed upon the ballot.

- C. 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.
- D. Any person conducting sales of his personal household goods on his own property.
- E. Any nonprofit organization, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes when no part of the entity's earnings benefit any private shareholder or individual.
- F. Any person conducting business in any industry or association trade show.
- G. Any person who sells exclusively antiques, used goods, or vintage items.
- H. Any vendor selling (for profit or not) on behalf of any Town organized event such as Old Home Day, or any other events sponsored by any other Town Committee.
- I. Farmers markets if permission of location is authorized by the owner of the land or building.
- J. Any delivery services, as an extension of a bona-fide existing business or corporation, including a NH registered 'franchise' vendor, cleaners, tool sales, florists, businesses that generate deliveries (via UPS, Fed-Ex and the like) from internet sales or any business that develops a 'Route Delivery and Sales' type service on a regular basis, such as meats, home delivered dairy goods and similar situations as determined by the Selectmen.

~56-12 INSURANCE REQUIREMENTS

Applicants for a license hereunder shall comply with such insurance requirements as shall be required by the Town at the time of the licensing. The type and amount of insurance will depend upon the type of operations to be carried out by the applicant. The Town shall be named as an additional insured on all insurance required. Licensees shall not hire or otherwise employ persons to work for them under a license issued hereunder without valid Workers' Compensation Insurance in place to cover such persons, evidence of which shall be filed with the Board of Selectmen. Cancellation of any required insurance coverage automatically cancels any license issued hereunder.

~56-13 PENALTIES

Any person, firm, corporation, association, partnership or other individual or group who is a hawker, peddler or vendor and who violates the terms of this Ordinance or the terms of a license issued hereunder shall be guilty of a violation and each day such violation.

Any of the above that continues after notice of such violation shall constitute a separate violation. Fines imposed by the Court shall be placed in the General Fund of the Town of Henniker.

~56-14 FEES

The license fee for a hawkers and peddlers license shall be \$50.00 and for a vendor's license shall be \$250.00

~56-15 SEVERABILITY

If any section, or part of a section, or paragraph of this Ordinance is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any

other section or sections, or part of a section or paragraph of this Ordinance so long as the purposes of this Ordinance can still be achieved in the absence of the invalidated provision.

~56-16 ADOPTION, EFFECTIVE

This Ordinance shall become effective upon its adoption by the Board of Selectmen in accordance with the requirements of RSA 31: 102-a.

~56-17 PENALTY

Violation of this ordinance shall carry a penalty of \$100.00 for each day a vendor, hawker or peddler engages in selling goods or services without a permit or continues to operate after notification of violation.