Town of Merrimack, NH

6 Baboosic Lake Road, Merrimack, New Hampshire 03054
Phone (603) 424-2331; Fax (603) 424-0461

TEMPORARY SALES LOCATIONS AND VENDORS APPLICATION

Please print clearly

APPLICANT:

Name: _____ Address: _____

Phone: _____ _____

Email Address: _____

Business Name: _____ Business Phone: _____

Owner Name & Address (if different): _____

_____

Type of Food, Beverage or Merchandise to be Sold: _____

Is Product Grown or Produced by Applicant: _____

STAND / MOTOR VEHICLE INFORMATION:

Proposed Location of Vending Business (Motor vehicle vendors - describe general area): _____

_____

Is proposed location on private property? (If yes, written permission of owner required) _____

Description of Stand or Motor Vehicle: _____

Vehicle Plate Number: _____ State: _____

FEES (choose the appropriate license):

☐ $50.00 1-Day License: Shall be valid for only the calendar day for which the license is issued.

☐ $100.00 1-Week License: Shall be issued for a specific time period from two (2) to up to seven (7) consecutive days. The expiration date shall appear on the approved license.

☐ $250.00 Annual License: Shall expire on the 31st day of December following its issuance.

Licenses are not transferable and shall be issued only for a specific cart, stand or vehicle to be located at a specific location. An additional license shall be required for each additional cart, stand or vehicle or for any change in the location of the vending business.

If requesting a 1-day or 1-week License, please list the dates that you will be operating:

_____

DOCUMENTATION SUBMITTED:

☐ Completed criminal background investigation dated within the last six (6) months.

☐ Completed motor vehicle record provided by the applicant in writing from the State of New Hampshire and the applicant's state of residence.

☐ Photograph of any stand or motor vehicle to be used in the operation of the business.

☐ Written consent of the property owner if the business activity is to be conducted on private property, any political subdivision property, agency or division of the State of New Hampshire or the Federal Government.

☐ Insurance policy with coverage not less than $100,000 for personal injury and property damage and with the Town of Merrimack named as an additional insured. The policy shall not terminate or be canceled prior to the expiration date with 10 days advance written notice to the Town.

☐ A copy of a current and valid Hawkers and Peddlers License issued by the New Hampshire Secretary of State.

☐ A certificate of inspection issued by the Health Official or their designee (if applicable).

☐ A certificate of inspection of fire extinguisher by Fire Chief or their designee (if applicable).

☐ A certificate of inspection issued by the Police Department or their designee for all motor vehicles in or from which food is prepared or sold (if applicable).

I, the undersigned, certify that all information provided in this application is true and correct to the best of my knowledge. I understand that any false statement(s) will be considered sufficient grounds to refuse issuance or revoke a license to operate within the Town of Merrimack and that I am subject to the rules and regulations of the Code of the Town of Merrimack and the laws of the State of New Hampshire.

I understand and agree that I must comply with the requirements of Chapter 180 of the Temporary Sales Locations and Vendors ordinance, including the requirement that upon issuance of a license, I must register with the Merrimack Police Department, and provide the Department with a copy of my license, prior to commencing sale activity. I understand that failure to comply with Chapter 180 will be sufficient grounds for the Town of Merrimack to revoke my license.

Applicant Signature _____ Date_____

(For Town Use Only)

PAID: Amount: $ _____ Date Paid: _____

Check: ☐ Check # _____ OR Cash: ☐ Amount $ _____

Town of Merrimack – Chapter 180. Temporary Sales Locations and Vendors

[HISTORY: Adopted 5-11-1995 by the Annual Town Meeting, Art. 20. Amendments noted where applicable. Amended by the Merrimack Town Council 10-22-2009; Chapter 180-6 on 4-22-2010; Amended 2-28-2013]

§ 180-1. License required.

A. 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 Merrimack or who go from place to place within the Town for such purposes, as defined in RSA 31:102-a, RSA 320 an RSA 32l, must before engaging in such activities, apply to the Town Council for and receive a license prior to the sale of or the distribution of items or goods.

B. License application forms shall be available at the office of the Town Manager, Merrimack, New Hampshire and the Town of Merrimack website.

§ 180-2. DEFINITIONS

For purposes of this chapter, the following definitions shall apply:

CHARITABLE ORGANIZATION – Any nonprofit organization, association or corporation, including any policemen, firemen, veteran, civic, fraternal or religious organization, organized under the laws of this state and holding or eligible to receive an Internal Revenue Service nonprofit organization number.

DISQUALIFYING CRIMINAL CONVICTION – Any felony convictions, any conviction involving harassment, violence, theft, fraud, loitering, prowling, or endangering the welfare of a child or incompetent.

HAWKER AND PEDDLER - The terms "hawker" and "peddler" shall mean and include any person, either principal, agent or employee, 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, as defined in RSA 320:1 and 358-A: 1.

ITINERANT VENDOR – The term "itinerant vendor" shall mean any person, as defined in RSA 321:1 and includes 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, from stock or by same for future delivery, and who, for the purpose of carrying on such business, hire or occupy a temporary place of business.

LICENSEE – The term "licensee" shall mean and include any vendor, hawker or peddler.

MOTOR VEHICLE – Any vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor which is or would be required to be licensed and registered by the Department of Motor Vehicles.

STAND – Any table, showcase, bench, rack, pushcart, wagon or any other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles used for the displaying, storing or transportation of articles offered for sale by a hawker, peddler or vendor.

§ 180-3 LICENSE REQUIREMENTS

A. Before the issuance of a license hereunder, the applicant shall provide to the Town Council 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.

B. License requirement Exceptions.

The following shall be exempt from the licensing requirement of this chapter but shall comply with the requirements and restrictions of §§ 180-8 through 180-11 and 180-14 of this chapter:

(1) 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.

(2) Any person conducting business in any industry or association trade show.

C. License Requirement Exemptions.

The articles of this chapter shall apply to all vendors, hawkers, peddlers and transients doing business or conducting sales within the Town of Merrimack, except the following:

(1) The sale of balloons, popcorn or other souvenirs and food products at a parade, as long as the parade has been licensed in accordance with RSA 286:2.

(2) Any person selling, at or on his or her own property or residence, the product of his or her own labor, the labor of his or her family or the product of his or her own farm or the one he or she tills.

(3) Any person conducting the sales of personal household goods at or on his or her own property or residence, or property of others with the property owner's permission. Written permission shall be available for display upon request at all times.

(4) Any vendor or person participating in a Farmer's Market affiliated with the Town of Merrimack Agricultural Commission.

§ 180-4. No door to door canvassing shall occur from dusk to 9:00 am.

§ 180-5. Application for license, Prerequisites

A. The applicant for a license hereunder must first obtain and provide 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 Merrimack.

B. Any hawker, peddler or vendor shall register with the Merrimack Police Department prior to commencing sale activity. Information required shall include the name, date of birth and photo identification.

C. The applicant shall provide a copy of their approved Itinerant Vendor License to the Merrimack Police Department.

§ 180-6. Application for license; information required. [Amended by the Merrimack Town Council 4-22-2010]
The license required by this chapter shall be issued by the Town Council or their designee in accordance with the Town Charter, Article V. The application for the peddler/vendor/hawker license shall include the following:

A. The name and home and business address of the applicant and the name and address of the owner, if other than the applicant, of the vending business, stand or motor vehicle to be used in the operation of the vending business.
B. A description of the type of food, beverage or merchandise to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant.
C. A description of the proposed location of the vending business, except that vendors from motor vehicles shall describe the general area.
D. A description and photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
E. A certificate of inspection as required by § 180-10.
F. Written consent of the property owner if the business activity is to be conducted on private property, any political subdivision property, agency or division of the State of New Hampshire or the Federal Government.
G. Proof of an in-force insurance policy issued by an insurance company licensed to do business in the State of New Hampshire protecting the licensee and the Town from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the license shall be required for any vending business conducted within a public right-of-way or on any other town-owned property. Such insurance shall name as additional insured the Town and shall provide that the policy shall not terminate or be canceled prior to the expiration date with 10 days advance written notice to the Town. Such policy shall provide coverage in the amount of not less than $100,000 for personal injury and property damage.
H. A completed criminal background investigation dated within the last (6) months and a motor vehicle record provided by the applicant in writing from the State of New Hampshire and the applicant's state of residence.

§ 180-7. Expiration of license; fees; non-transferability.
1-day License: Each license shall be valid for only the calendar day for which the license is issued. The fee for such a license shall be $50.00.

1-Week License: Each license shall be issued for a specific time period from two (2) to up to seven (7) consecutive days. The expiration date shall appear on the approved license. The fee for such license shall be $100.00.

Annual License: Each license shall expire on the 31st day of December following its issuance. The fee for such a license shall be $250 annually per cart, stand or motor vehicle from which goods are sold.

Licenses are not transferable and shall be issued only for a specific cart, stand or vehicle to be located at a specific location. An additional license shall be required for each additional cart, stand or vehicle or for any change in the location of the vending business.

§ 180-8. Prohibited conduct.

A. No vendor or peddler shall:
   (1) Vend within 500 feet of the grounds of any elementary or secondary school between 1/2 hour prior to the start of the school day and 1/2 hour after dismissal at the end of the school day.
   (2) 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 the Town and state parking regulations.
   (3) Sell food or beverage for immediate consumption unless he has available for public use his or her own litter receptacle which is available for his or her patrons' use.
   (4) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from the sales made by the licensee.
   (5) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand or motor vehicle or outside of the approved vending area.
   (6) Set up, maintain or permit the use of any table, crate, carton, rack, sign or any other device to increase the selling or display capacity of his or her stand or motor vehicle where such items have not been described in his or her application or may be in violation of any other town ordinance or regulations.
   (7) Solicit or conduct business with persons in motor vehicles within the traveled way.
   (8) Sell or distribute anything other than what is described and permitted in their license or application.
   (9) Sound or permit the sounding of any device which produces a loud and/or raucous noise or use or operate any loud speaker, public address system, radio sound amplifier or similar device to attract the attention of the public, with the exception of ice cream trucks, while moving.
   (10) Sell, offer or solicit for sale, any goods or merchandise on any Town owned property unless expressly approved by the Town Council.
   (11) Vend within 50 feet of any building or storefront housing a business selling the same or similar food, merchandise, or project except during special one-day events or while such business is closed.
   (12) Vend within 20 feet of an entranceway to any building.
   (13) Vend within 30 feet of any driveway entrance to a police or fire station or within 10 feet of any other driveway entrance.
   (14) Vend within 20 feet of a crosswalk at any intersection.
   (15) Allow the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure.
B. No vendor/peddler vending from a motor vehicle shall:
   (1) Conduct his or her business in such a way as would restrict or interfere with the ingress or egress of the abutting

property owner or tenant or create or become a public nuisance, increase traffic congestion or delay or constitute a hazard to traffic, life or property or an obstruction to adequate access to fire, police or sanitation vehicles.

(2) Stop, stand or park his or her vehicle upon any street for the purpose of selling or sell on any street under any circumstances during the hours when parking or stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance.

(3) Stop, stand or park his or her vehicle within 30 feet of the edge of the traveled way of any intersection. Vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale.

C. (1) Vend without the insurance coverage specified in § 180-6:G.

(2) Leave any motor vehicle or stand unattended.

§ 180-9. Health and sanitation requirements for food and beverage vending.

Peddlers and vendors processing food or beverages for sale shall comply with the inspection provisions and standards of the health regulations relative to the licensing of food service establishments adopted by the Town Council or their designee in accordance with RSA 147:1. The equipment used in vending such food and beverages shall be inspected by the Health Official or their designee upon application for a license and receive a certificate of inspection upon compliance with this section from the Health Official or their designee.

§ 180-10. Safety requirements.

A. No licensee shall operate under a license issued hereunder without a fire extinguisher of a type approved by the Fire Chief of the Town of Merrimack, or his designee, if the licensee utilizes heat generating equipment.

B. All motor vehicles in or from which food is prepared or sold shall be inspected by the Police Department or their designee for compliance with the following requirements prior to the approval of the application by the Town Council or their designee.

(1) All equipment installed on any exterior 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.

(2) All utensils shall be adequately stored to prevent their being hurled out of the vehicle in the event of a sudden stop, collision or overturn.

§ 180-11. Advertising.

No advertising, except the posting of prices, the name of the product and/or the name and address of the vendor shall be permitted on any stand or motor vehicle. A sign permit shall be required for any freestanding sign and for any signage that remains at the site after the vending business' hours of operation.

§ 180-12. Site plan review.

Planning Board site plan review shall not be required for temporary peddler/vendor sales on private property, provided that the duration of the business activity does not exceed 35 days within any ninety-day period and that:

A. The vending business does not occupy any parking spaces, except such spaces that exceed the minimum number of parking spaces otherwise required for the site.

B. No required entrances, exits, driveways or fire lanes shall be obstructed.

§ 180-13. Display of licenses.

It shall be required that the individual or individuals who obtain a license, as provided herein, shall keep the license displayed openly. In the case of sales being conducted from or upon a vehicle, cart or wagon, such license shall be displayed openly upon said vehicle, cart or wagon which it is licensing.

§ 180-14. Violations and penalties.

Any person, firm or corporation violating any provisions of this chapter shall be fined up to but not exceeding $100 for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

§ 180-15 Denial, Revocation or Waiver of License

A. Denial of License

(1) The Town Council or designee may deny a license under circumstances where it is reasonably perceived that the product(s) sold would be incompatible with the surrounding neighborhood.

(2) Any person/hawker/peddler having his license denied may request in writing reconsideration by the Town Council.

B. Revocation of License

(1) Any licensed peddler who shall be guilty of fraud, cheating or misrepresentation, whether through himself or through an employee, while acting as a hawker/peddler in Merrimack, or who shall sell any good, merchandise, service, or wares other than those specified in the application for a license shall be deemed guilty of a violation of this chapter.

(2) Any person violating any provisions of this chapter shall have his license revoked by the Town Council or their designee.

C. Waiver of License

(1) The Town Council may, at their sole discretion, waive some or all of this ordinance.

§ 180-16. Additional requirements, fees and conditions.

A. This chapter, and the requirements imposed hereunder, are in addition to any requirements, fees and licenses imposed by the State of New Hampshire in accordance with RSA 320 and RSA 321, where applicable. All definitions used and referred to in RSA 320 and RSA 321 shall be applicable to the interpretation of this chapter and the laws of the State of New Hampshire; the more stringent provision of said law shall apply.

Nothing herein shall be construed to require the Town Council to issue a license that would be in conflict with any contract, permit, approval or franchise agreement granted to persons or organizations to exclusively vend food or merchandise from a fixed location.