



# TOWN COUNCIL – AGENDA REQUEST FORM

THIS FORM WILL BECOME PART OF THE BACKGROUND INFORMATION USED BY THE COUNCIL AND PUBLIC

Please submit Agenda Request Form, **including back up information**, 8 days prior to the requested meeting date. **Public Hearing requests must be submitted 20 days prior to the requested meeting date to meet publication deadlines** (exceptions may be authorized by the Town Manager, Chairman/Vice Chair).

## MEETING INFORMATION

Date Submitted: April 24, 2019      Date of Meeting: May 9, 2019  
Submitted by: Barbara Healey      Time Required: 30 minutes  
Department: Town Council      Background Info. Supplied: Yes  No   
Speakers: Barbara Healey, Dan Decourcey, Carl Soderberg

## CATEGORY OF BUSINESS (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Appointment:       Recognition/Resignation/Retirement:   
**Public Hearing:**       Old Business:   
New Business:       Consent Agenda:   
Nonpublic:       Other:

## TITLE OF ITEM

Food Trucks – a proposal to simplify the process for both Town employees and the smallest of our small business men and women, Food Truck owners/operators.

## DESCRIPTION OF ITEM

A proposal to simplify the process for both Town employees and the smallest of our small business men and women, Food Truck owners/operators by taking advantage of regulations and work already performed by the State of New Hampshire.

## REFERENCE (IF KNOWN)

RSA: RSA 320, RSA 321      XX      Warrant Article:  
Charter Article: Chapter 180      Town Meeting:  
Other:      N/A:

## EQUIPMENT REQUIRED (PLEASE PLACE AN "X" IN THE APPROPRIATE BOX)

Projector:       Grant Requirements:   
Easel:       Joint Meeting:   
Special Seating:       Other:   
Laptop: Will use mine but need hook-up to project on screen       None:

## CONTACT INFORMATION

Name: Barbara Healey      Address: 68 Back River Rd  
Phone Number:      Email Address:  
603.424.1753

## APPROVAL

Town Manager: Yes  No       Chair/Vice Chair: Yes  No

Hold for Meeting Date:

# Town of Merrimack, NH

Temporary Sales Locations and Vendors

A proposal to simplify the process for  
both Town employees and the smallest  
of our small business men and women,  
Food Truck owners/operators

## What's a Food Truck?

*A food truck is a large vehicle equipped to cook and sell food. Some sell ice cream, sell frozen or prepackaged food; others have on-board kitchens and prepare food from scratch. Sandwiches, hamburgers, French fries, and other regional fast food fare is common. In recent years, the food trucks offer gourmet cuisine and a variety of specialties and ethnic menus. Food trucks, along with portable food booths and carts serve an estimated 2.5 billion people every day.* Wikipedia

Food trucks come in all shapes and sizes and offer a variety of foods and artwork.



Amherst, NH

Merrimack's own

Up

In Your Grill





Kama Hele Café, HI

*Associated regulations:*

- State of NH: Hawker and Peddler Statute
  - Town Of Merrimack
- Chapter 180: Temporary Sales Locations and Vendors



## *State of NH Requirements:*

- State Hawkers/Peddlers (and Annual) \$ 50.00

License (320:8)

## Current Town Fees and Requirements:

- Active State Hawkers/Peddlers License \$ 50.00
- Criminal Background Investigation (\$25/must do every 6 months) \$ 50.00
- State Motor Vehicle Record (\$15/must do every 6 months) \$ 30.00
- Health Inspection and Police Inspection \$ ??
- Total One Day License \$ 50.00
- One Week License \$100.00  
(Good for 2 up to 7 days)
- Annual License \$250.00  
(only good for one truck and one location in town)

## Comparison of Area Cities and Towns

City	Population	Annual Fees	Fee - City Wide	Background Check?	Police Inspection?	Driver's Record?
Manchester	110,601	\$150	Yes	NO	NO	NO
		Peddler \$200 Health				
Nashua	87,642	\$100	Yes	NO	NO	NO
		Peddler \$140 Health				
Concord	42,717	\$212 Mobile Food License	Yes	NO	NO	NO
Derry	33,312	\$60 Mobile Food License	Yes	NO	NO	NO
Merrimack	25,566 (2017)	\$250.00 Vendor Health - Inspection Additional	NO	Yes \$25/6 months	YES	YES \$15/6 months

# How does this work?

To obtain license for 3 separate locations in the Town of Merrimack for 1 year:

- First License:  
Hawkers/Peddlers (and Annual) License (320:8) \$ 50.00
- Criminal Background Investigation  
(every 6 months) \$ 50.00
- State Motor Vehicle Record  
(every 6 months) \$ 30.00
- Annual Town License  
(Good for one location in town) \$ 250.00
- Second Town License  
(Good for second location in town) \$ 250.00
- Third Town License  
(Good for third location in town) \$ 250.00
- Possible additional charges for  
each 1 day location throughout the year \$ 200.00 plus
- Total \$ 1080.00 plus

# Proposals

## *Current wording:*

Town of Merrimack: § 180-7 Expiration of license; fees; nontransferability.

- A One-day license: Each license shall be valid for only the calendar day for which license is issued. The fee for such a license shall be \$50.
- B. One-week license: Each license shall be issued for a specific time period from two to up to seven consecutive days. The expiration date shall appear on the approved license. The fee for such license shall be \$100.
- C. Annual license: Each license shall expire one year from the date of approval unless an earlier expiration date was established. The fee for such a license shall be \$250 annually per cart, stand or motor vehicle from which goods are sold.
- D. 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.

## ***New Option:***

**Choice of a *Town-wide* license to be offered in addition to current choices.**

- *Town-wide* license would be offered for \$350 and would be in effect for the period of one year.
- License would be good for multiple locations, multiple days. Separate license would not be needed for a change of location or specific days.
- *Town-wide* license would not be transferable and only issued for a specific cart, stand or vehicle.
- An additional license would be required for each additional cart, stand or vehicle of the vending business.

## Advantages:

- Offering a *Town-wide* license would reduce the number licenses processed by Town employees thus leaving them available for other tasks.
- *Town-wide* license would be more cost effective for Food Truck owners/operators, several of whom are Merrimack residents and the smallest of our small business men and women, thus reducing their operational costs and would reduce the number of trips needed to Town Hall to request an additional license. Charges would also be more in-line with area cities and towns.
- *Town-wide* license would encourage non-Merrimack vendors to become licensed in the Town thus increasing the availability and variety of food truck offerings.
- *Town-wide* license would make it easier for other businesses to offer Food Truck services at their place of business or property.



## *Current wording:*

### **Town of Merrimack: § 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.

## *New Option:*

Eliminate the inspection of food truck type vehicles by the Police Department and include it as part of the Safety/Health Inspection process performed by the Health/Fire and Rescue Dept. (Procedures for Health Inspections of Temporary Food Vendors.)

## Advantages:

- Performance of the Health Inspection is completed by a Town employee. As part of the Fire and Rescue Dept., they are trained to recognize the brand of fire extinguisher approved by the Fire Chief. This would eliminate the need for a Police Officer to check the fire extinguisher.
- Inspection of the containers and utensils is already part of the Health Inspection. Including utensil storage in that process would eliminate redundancy and duplication of effort and free up the police officer for other tasks.
- As the Health Inspector performs a walk-around of the vehicle, it can include in the inspection process, ensuring that any equipment that may be stored on the outside of the vehicle is secured. Again this step would eliminate having a Police Officer inspect the outside of the vehicle thus eliminating duplication of effort by two Town employees.
- Consolidating the Health and the Safety inspections streamlines the inspection process for the vendor seeking the license thus making the process more vendor-friendly and promote the image of the Town as being business friendly.

## *Current Wording:*

**Town of Merrimack: § 180- 6:F 36 Application for license; information required.**

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.

## *New Option:*

Revise wording of section 180-6:f to eliminate the wording “Written” when referring to the property owner. Written consent would still be required for other types of properties.

New wording: (180-6:F)  
(~~Written~~) Consent of the property owner if the business activity is to be conducted on private property. Written consent required for any political subdivision property, agency or division of the State of New Hampshire or the federal government.

## Advantages:

- With implementation of a *Town-wide* license, if a business owner is requesting to have a food truck on his property; it should be between the property/business owner and the food truck owner. This would be the property/business owner's responsibility to ensure that there is enough room for the food truck and there are enough parking spaces for his business. Written consent should not be needed in this scenario.
- Eliminating the need for "written" consent reduces the number of visits to Town Hall to provide the "written" consent thus allowing Town Employees to be available for other tasks.

## *Current Wording:*

### **Town of Merrimack: § 180- 8: A (10) Prohibited Conduct.**

Sell, offer or solicit for sale, any goods or merchandise on any Town-owned property unless expressly approved by the Town Council.

## ***New Option:***

- Revise wording of § 180-8 A (10) to allow approvals to be granted by the Town Manager.
- New Wording:
  - A. No vendor or peddler shall  
(10) Sell, offer or solicit for sale, any goods or merchandise on any Town-owned property unless expressly approved by the Town Manager.



## ***Advantages:***

Allows for a quicker turn-around of requests and is within the scope of the Town Manager duties.

## *Current Wording:*

**Town of Merrimack: § 180-6 Application for license; information required.**

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 completed criminal background investigation dated within the last six months provided by the applicant in writing from the State of New Hampshire and the applicant's state of residence. Applicants who are engaged in their peddler / vendor /hawker activities at an event, with approval from the event sponsor, and when said event has obtained all other required approvals from the state and the Town, are exempt from this criminal background check requirement.

# *Current Wording (Cont.)*

## **New Hampshire Revised Statutes 31:102-b Background Checks for Certain Vendors**

I. Any municipality may require persons who go from door to door, place to place within a town, or town to town, who sell, offer to sell, or take orders for merchandise or offer to perform personal services for household repairs or improvements, to submit to a state records check only, or both a federal and state records check. Municipalities that require a criminal history records check shall have such person submit to the municipality a notarized criminal history records release form, as provided by the division of state police, which authorizes the release of the person's criminal records, if any. To obtain a federal records check, such person shall also submit to the municipality, with the release form, a complete set of fingerprints.

II. For a state and federal criminal records check, the municipality shall request that such person submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department of safety. The municipality shall submit the criminal history records release form and inked fingerprint card to the division of state police which shall conduct a criminal records check through its records and through the Federal Bureau of Investigation. Fingerprints taken digitally by Live Scan or similar device shall be transmitted directly to the New Hampshire division of state police. In the event that the first set of fingerprints is invalid due to insufficient pattern, the municipality may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 10 years. Upon completion of the records check, the division of state police shall release copies of the criminal history records to the local law enforcement agency of the municipality which shall maintain the confidentiality of all criminal history records information received pursuant to this section. The municipality may charge a fee to recover the costs of such investigation.

## *Current Wording (Cont.)*

- III. To obtain a state records check only, the municipality shall submit a state criminal history records release form, completed by such person, to the division of state police.
- IV. Such person shall also include the location of all municipalities in which such person seeks to transact business. Such municipalities, in accordance with their licensing requirements, shall have access to the results of the criminal history records check and the New Hampshire division of state police shall release copies of the criminal history records to such municipalities. Such person shall be responsible for any additional fees for any administrative costs incurred by the New Hampshire division of state police under this section.

## *New Option:*

- Current wording used in the Town requirement, “Criminal background investigation.”
- Current wording used in the State Statute, “Criminal history records check”, “To submit to a state records check only, or both a federal and state records check.”
- Intent of the Town is unclear as to what the requirement is as different verbiage is used.
- The above slides describes the process to be followed to request State records or a federal and state records check. Both processes are long and involved.
- Licenses for “brick and mortar” restaurants do not require a state and/or federal records check.
- I would recommend deleting this requirement.

## *Advantages:*

- Deleting this requirement would eliminate a labor intensive process. Town employees would be available for other duties.
- Deleting this requirement would eliminate the need for finger-printing by Police Officers making them available for other duties.
- Would bring the licensing process for food trucks and restaurants more in-line with the other thus not singling out food truck operators with a more burdensome process.



**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: \_\_\_\_\_ Street Address: \_\_\_\_\_

Phone: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

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.

List the date that you will be operating: \_\_\_\_\_

- \$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.

List the dates that you will be operating: \_\_\_\_\_

- \$250.00 Annual License: Shall expire one year from the date of approval.

**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.**

**TEMPORARY SALES LOCATIONS AND VENDORS APPLICATION**

Town of Merrimack

**Health Inspections:**

Any vendor offering food or beverages for sale shall be responsible for obtaining a Temporary Food Vendor Permit from the Health Division of the Fire Department. This involves an equipment inspection and a food safety inspection. **It is the applicant's responsibility to make their own arrangements for the Health inspections AFTER submitting a complete application to the Town Manager's office.** The Health Division can be reached at (603) 420-1730. Those traveling distances for a single temporary event can make arrangements for an on-site inspection.

**Sales on Town Owned Property:**

No vendor shall sell, offer or solicit for sale any goods or merchandise on any Town owned property unless expressly approved by the Town Council. This is done at a public Town Council meeting. In this instance, include a completed agenda request form with your application package.

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COMPLETE APPLICATION PACKETS should be submitted to the Town Manager's office at the following address either by mail or in person: Town of Merrimack, ATTN: Town Manager, 6 Baboosic Lake Road, Merrimack, NH 03054

**DOCUMENTATION CHECKLIST** Please call 603-424-2331 if you have questions about what is required.

**REQUIRED BY ALL VENDORS**

- Copy of current and valid Hawker and Peddlers License issued by the NH Secretary of State.
- Photograph of any stand or motor vehicle to be used in the operation of the business.
- Written consent of property owner – ONLY required if the business activity is to be conducted on private property, any political subdivision property, agency or division of the State of NH or the Federal Government.
- Insurance policy with coverage not less than \$100,000 for personal injury and property damage and with Town of Merrimack named as additional insured – ONLY required if vending on public right-of-way or town-owned property).
- A completed criminal background investigation dated within the 6 months provided by the applicant in writing from the State of NH and the applicant's state of residence (if different). Applicants who are engaged in their peddler/ vendor/ hawker activities at an event, with approval from the event-sponsor, and when said event has obtained all other required approvals from the State and the Town, are exempt from this criminal background check requirement.

**REQUIRED BY MOBILE VENDORS (in addition to above)**

- Completed motor vehicle record dated within the last 6 months provided by the applicant from the State of NH and the applicant's state of residence (if different).
- Certificate of inspection by the Police Dept. or designee for all motor vehicles in or from which food is prepared or sold.

*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:



## **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; Amended 1-25-2018 ]

### **§ 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 and RSA 321, 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.
- (3) An itinerant vendor who operates a permanent business in this state, occupies temporary premises, and prominently displays the permanent business' name and permanent address while business is conducted from the temporary premises.

#### **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.

## **Town of Merrimack – Chapter 180, Temporary Sales Locations and Vendors**

### **§ 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 provided by the applicant in writing from the State of New Hampshire and the applicant's state of residence. Applicants who are engaged in their peddler/vendor/hawker activities at an event, with approval from the event-sponsor, and when said event has obtained all other required approvals from the State and the Town, are exempt from this criminal background check requirement.
- I. A completed motor vehicle record dated within the last six (6) months provided by the applicant in writing from the State of New Hampshire and the applicant's state of residence for those utilizing a motor vehicle for vending (ex: ice cream trucks or catering trucks).

### **§ 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 one year from the date of approval unless an earlier expiration date was established. 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.

## **Town of Merrimack – Chapter 180, Temporary Sales Locations and Vendors**

- (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.



**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 LICENSE**

In accordance with RSA 31:102-A and Chapter 180, Temporary Sales Locations and Vendors, amended by the Town Council on January 25, 2018, this license is granted to:

Applicant Name: \_\_\_\_\_  
Applicant Address: \_\_\_\_\_  
Business Name: \_\_\_\_\_

to operate \_\_\_\_\_ in the Town of Merrimack.

This license is granted subject to the provisions and restrictions contained in the ordinance of the Town of Merrimack.

- 1-Day License: Valid \_\_\_\_\_ ONLY.  
Expires at midnight on valid date.
  
- 1-Week License (2-7 consecutive days).  
Valid for these specific days only: \_\_\_\_\_  
Expires \_\_\_\_\_
  
- Annual License: Expires one year from approval date.  
Expires \_\_\_\_\_

Issue Date: \_\_\_\_\_ Town Manager/Designee Approval \_\_\_\_\_

**NOT VALID UNTIL SIGNED BELOW BY FIRE/HEALTH DESIGNEE**

\_\_\_\_\_