

# Town of Tuftonboro

## Hawkers, Peddlers, and Itinerant Vendors Regulations

### 1. **Purpose.**

The purpose of this regulation is to promote public convenience and necessity by providing for the use of public streets by hawkers, peddlers and itinerant vendors while preserving the free and unobstructed passage of pedestrians and traffic, to provide for a fair allocation of limited space on congested streets in the Town of Tuftonboro and to assure that such operations are safe, neat and sanitary.

### 2. **Authority**

The provisions of this chapter are adopted pursuant to the authority granted by RSA 31:102-a<sup>1</sup> and are in addition to any requirements imposed by the State of New Hampshire under either RSA Chapter 320 entitled “Hawkers and Peddlers” or RSA 321 entitled “Itinerant Vendors.”

### 3. **Definitions.**

- A. The words “hawker,”<sup>2</sup> “peddler”<sup>2</sup> and “itinerant vendor”<sup>3</sup> as used herein shall be defined as in RSA 320:1 and RSA 321:1 and, without limitation, shall include any

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<sup>1</sup> As of the adoption of this regulation, RSA 31:102-a provides: The governing board of a city, town or village district may adopt, by ordinance or regulation, provisions for the licensure and regulation of itinerant vendors, hawkers, peddlers, traders, farmers, merchants, or other persons 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. Any person who violates any provision of such ordinance or regulation shall be guilty of a violation, and each continuing day of violation after notice shall constitute a separate offense. 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 the candidate's 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 the 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.”

<sup>2</sup> As of the adoption of this regulation, RSA 320:1 defines the terms “hawker” and “peddler” “to include any person, as defined by RSA 358-A:1, either principal or agent, who: I. 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 therefor, any goods, wares, or merchandise, either on foot or from any animal, cart, or vehicle; or II. 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 and improvements, including contracts for the replacement or installation of siding on any residence or building; or III. Keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise.”

hawker, peddler or itinerant vendor, trader, farmer, merchant or other person who sells or takes orders for merchandise from temporary or transient sales locations within the Town of Tuftonboro or who travel from town to town or place to place within the Town of Tuftonboro for such purpose.

- B. "Pushcart" a cart that is not motorized or self-propelled, has wheels, and which is capable at all times from being moved from one place to another by one person who has physical control of the pushcart. A pushcart shall not be left unattended during the time when it is being used for the sale of merchandise. A pushcart may include the ability to heat, cool or manipulate (mix, rotate, etc.) merchandise, provided all such devices are self-contained within or on the pushcart without the need to connect to external energy sources.
- C. "Town" shall be the Town of Tuftonboro, New Hampshire.
- D. "Vendor" shall include hawker, peddler or itinerant vendor.

#### **4. License Required.**

It shall be unlawful for any person to engage in the business of hawker, peddler or itinerant vendor as defined in RSA 320:1 and RSA 321:1 in the Town without first obtaining a license as provided herein.

No license shall be required for:

- A. Itinerant vendors as defined in RSA 321:1;
- B. 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;
- C. Any person conducting sales of personal household goods on his own property;
- D. 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;
- E. Any person conducting business in any industry or association trade show; or

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<sup>3</sup>As of the adoption of this regulation, RSA 321:1 defines "itinerant vendors" as "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, 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."

F. Any person who sells exclusively antiques, used goods, or vintage items.

**5. Types of Licenses.**

- A. Transient sales license. A transient sales license shall permit the holder to go from door to door or place to place within the Town. Holders of this permit shall not be allowed to vend from any public place in the Town except that vehicles, carts or other conveyances holding such a permit shall be permitted to stop at public beaches and recreation areas for a reasonable period of time and only as long as such stopping does not interfere with the movement of other traffic at such beaches or recreational areas.
- B. Pushcart license. A pushcart license shall permit the holder to vend from an assigned location in the area permitted for pushcarts. The number of pushcart licenses issued shall be limited to the number of designated pushcart spaces.

**6. Application Procedure.**

- A. The applicant shall file a completed application form with the Town. The applicant shall provide a copy of a current, valid New Hampshire hawker, peddler, or itinerant vendor permit, as appropriate, and shall be required before receiving a permit to furnish evidence of insurance coverage holding the Town harmless from any liability caused by the Vendor's operation.
- B. If more than one application is filed for one area, there will be a lottery to pick the successful applicant.
- C. The permit will be in effect from May 1 to December 31, unless the permit provides otherwise.
- D. In accordance to RSA 31:102-b, the applicant shall submit to a federal and state records check. The applicant shall submit to the Town 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. The applicant shall also 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 applicant shall also include the location of all other municipalities in which the applicant seeks to transact business. The Town 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 Town 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 Tuftonboro Police Department which shall maintain the confidentiality of all criminal history records information received pursuant to this section. The applicant shall pay a fee to the Town in an amount to cover out of pocket expenses plus the costs of such investigation at the rate of \$25 per hour: The minimum fee shall be \$75.00 plus out of pocket expenses, and the maximum fee shall be \$175.00 plus out of pocket expenses.

**7. Limitations.**

- A. No pushcart license shall be issued when the applicant's cart exceeds three feet in width or five feet in length.
- B. Each Vendor shall make a trash receptacle available to the public at his location and shall be responsible for collection and removal at his location.
- C. A Vendor shall be allowed to occupy only the area specifically designated for vending.
- D. No pushcart license holder shall be allowed to occupy any designated parking space.
- E. Except as hereinafter described, there shall be no vending from the public streets and areas of the Town.
- F. No Vendor shall, within 100 feet of an established business, offer for sale any like item offered by any other established business within that distance, which includes but is not limited to clothing apparel, food, etc.
- G. No cart shall be left unattended.
- H. All carts shall be off the streets between the hours of 10:00 p.m. and 7:00 a.m. of each day.
- I. Each Vendor shall be responsible for maintaining their operation in conformance with the laws and regulations of the State of New Hampshire and the Town.

**8. Permitted areas.**

The following areas shall be available for use to persons holding a valid pushcart license from the Town: two spots at the 19 Mile Bay beach parking lot.

**9. Renewal.**

Renewals shall follow the same procedure as set forth under Section 6, "Application Procedure."

**10. Transfer.**

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued. No such license is transferable.

**11. Revocation of license.**

- A. Licenses issued under the provisions of this chapter may be revoked by the Selectmen after notice and hearing for any of the following causes:
  - (1) Fraud, misrepresentation or false statement contained in the application for license;
  - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler, hawker or itinerant vendor;
  - (3) Any violation of these Regulations, RSA Chapter 320 or RSA Chapter 321;
  - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
  - (5) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address, or served in hand to the licensee at least five days prior to the date set for the hearing.

**12. Exhibition of license.**

Hawkers, peddlers and itinerant vendors are required to exhibit their licenses at the request of any citizen.

**13. License Issuance/Fees.**

- A. A license under these Regulations shall issue only after payment in full of all license fees required under Section 11.B. and records check expenses under Section 6.D.
- B. Fees: Transient sales license - \$25.  
  
Pushcart license - \$25 per month (or any portion thereof), or \$150 for calendar year (May 1 to December 31).

**14. Violations and penalties.**

Any person found to be in violation of any provisions of these Regulations, RSA Chapter 320 or RSA Chapter 321 shall be subject to one or more of the following penalties:

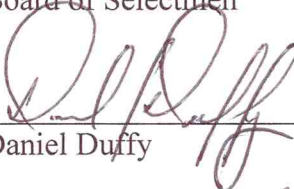
- A. Prosecution as a class B misdemeanor<sup>4</sup>;
- B. Prosecution as a violation and fined not more than \$500.00<sup>5</sup>; and
- C. For counterfeiting a license, prosecution of a class B misdemeanor (if a natural person) or as a felony (if any other person).<sup>6</sup>

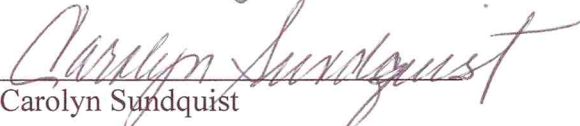
A separate offense shall be deemed committed upon each day during which a violation occurs.

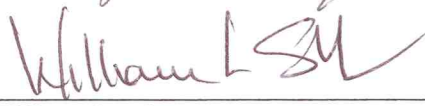
**15. Adoption/Amendment**

This regulation is adopted by the Tuftonboro Board of Selectmen on 1/25/11, 2011. This regulation may be amended following the same procedures for adoption.

Town of Tuftonboro  
Board of Selectmen

  
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Daniel Duffy

  
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Carolyn Sundquist

  
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William Stockman

<sup>4</sup> As of the adoption of this regulation, the pertinent statutory authority is derived from RSA 31:102-a, RSA 320:19, :22, RSA 321:21.

<sup>5</sup> As of the adoption of this regulation, the pertinent statutory authority is derived from RSA 320:2.

<sup>6</sup> As of the adoption of this regulation, the pertinent statutory authority is derived from RSA 320:15.