

TOWN OF NEW DURHAM

Transient Sales Persons

TO.03.010

PURPOSE:

To regulate transient sales for the protection of the community.

AUTHORITY:

The provisions of this Ordinance are adopted pursuant to RSA 31:102-a and requirements imposed by the State of New Hampshire under RSA 320 and/or RSA 321.

LICENSE REQUIRED:

It shall be unlawful for any person or persons to engage in the business of transient sales as defined in RSA 320:1 and RSA 321.1 in the Town of New Durham without first obtaining a license as provided herein.

TRANSIENT LICENSE:

A transient license shall permit the holder to go from door to door or place to place within the Town, for the purpose of selling goods or services as defined in RSA 320:1 and /or 321:1.

DEFINITIONS:

The words "Transient Sales Person" as used herein shall be equated with the terms "Hawker" and "peddler" as defined in RSA 320:1 and RSA 321:1 and shall include any 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 New Durham, or who goes from door to door or place to place within the Town for such purposes.

APPLICATION PROCEDURE FOR TRANSIENT SALES:

- A. The applicant shall file a completed application form with the Town of New Durham. The applicant shall provide a copy of a current, valid NH Hawkers permit and proof of product liability.
- B. The application shall include:
 1. Date of application.
 2. Number of application.

3. Name, home and business address of applicant.
 4. Name and address of owner of vending business if other than the applicant.
 5. Description of merchandise or services to be sold.
 6. Description of motor vehicle to be used including vehicle registration number.
 7. State license number and effective date.
 8. Names of persons soliciting.
 9. Names of last town in which they solicited.
 10. One personal and one professional reference.
- C. All persons licensed under this Ordinance shall at all times wear an ID badge provided by the Town. The badge shall include:
1. Name of solicitor
 2. Names of business
 3. Expiration date
- D. A copy of this Ordinance will accompany the application form.
- E. Not later than 30 days after the filing of an application, the Board shall notify the applicant of its decision on the issuance or denial of the license. In the case of a denial, the Board shall indicate the basis for denial which may include, without restriction, the following:
1. Fraud or misrepresentation contained in the application.
 2. Over-intensive vending activities within the area or at time requested in the application.
 3. Inadequate information as to the nature of the proposed business or identity of the applicant.
 4. Such other reasons as the Board determines necessary for public health, safety and welfare.
- F. If the Board issues a license, it may restrict operation of the solicitation to particular areas or to particular time or to a particular manner of operation or any combination of the foregoing.
- G. Any business licensed under this Ordinance shall at all times operate in a manner which will not interfere with public safety on the streets and shall operate in such a manner as to create minimal inconvenience to the public. A licensee shall operate a business only from such places and at such times as are authorized in the license.
- H. If the Board denies a license under this Ordinance, it shall give notice of the grounds therefore to the applicant. Said applicant may request a rehearing before the Board if he/she alleges mistake or error or if additional facts should be brought to the attention of the Board.

LIMITATIONS:

- A. Transient sales shall be limited to a reasonable and acceptable noise level.
- B. No transient sales person shall, within one hundred (100) feet of an established business, offer for sale and like items offered by such established business.
- C. Solicitation shall take place between the hours of 8:00 am and 8:00 pm of each day.
- D. Transient sales person selling food products shall be subject to health inspections and must comply with all state and local health and sanitation regulations.
- E. Each business shall be responsible for maintaining their operation in conformance with the laws and regulations of the State of NH and the Town of New Durham and shall be required before receiving a license to furnish evidence or insurance coverage holding the Town harmless from and liability caused by the transient sales operation.
- F. The Town shall be exempt from any and all responsibility and liability resulting from transient sales persons operation on private property.

EXPIRATIONS OF LICENSE:

License period is as granted, which shall be noted on the license. All annual licenses will expire as of April 1st of the year of issuance, and shall be renewed on an annual basis.

RENEWAL:

Annual licenses cannot be automatically renewed. Annual licensee must reapply once during each calendar year and shall be required to make application as set forth under the “application procedure” section of this ordinance.

TRANSFER:

No license issued under the provisions of this Ordinance shall be used at any time by any person other than the one to whom it was issued. No such license is transferable. Changes in personnel require a license update for which there is no additional fee. Changes in ownership require a new application by the new owner.

REVOCAION OF LICENSE:

- A. Licenses issued under the provisions of this Ordinance 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/her business as a transient sales person.
 3. Any violation of this ordinance.
 4. Conviction of any crime or misdemeanor involving moral turpitude.
 5. Conducting the business or transient sales 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 pre-paid, to the licensee at this last known address, or served in hand to the licensee at least five (5) days prior to the date set for the hearing.
- C. The Board authorizes the Police Department to issue a temporary suspension of the license, if the Chief of Police or his designee determines that the Licensee has violated any section of this ordinance, and determines that the continued operation of the transient sales operation would be against the best interest of the public. This temporary suspension will wither be upheld or rescinded by the Board at the next regular meeting, and if upheld will continue until the formal revocation proceeding.

EXHIBITION OF LICENSES:

Transient sales persons are required to exhibit their State and Local licenses in full public view at all times.

LICENSE FEES:

The fee for licensing shall be set by the Board of Selectmen. *See fee schedule. The fee is payable to the Town of New Durham and may be in cash or a certified bank check. This fee is also an application fee and is non-refundable in the case of a denial or revocation.

ENFORCEMENT:

This Ordinance shall be enforced by the New Durham Health Officials and the New Durham Police Department.

PENALTY:

Any person convicted of a violation of any provisions of this Ordinance shall be guilty of a violation as defined by the Criminal Code of the State of NH. A separate offense shall be deemed committed upon each day during which a violation occurs and punishable by a fine of not more than fifty (\$50.00) dollars for each and every violation.

All fines collected under the provisions of this Ordinance shall be placed in the General Fund of the Town of New Durham, NH.

DISPOSITION OF REVENUES:

Any monies generated by this Ordinance, either by fees or fines, shall be placed in the General Fund of the Town of New Durham, NH.

If any section, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court, such portion shall be deemed a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portion.

This Ordinance shall take effect upon its adoption by the Board of Selectmen.

New Durham Board of Selectmen

Town Clerk
(signed May 1, 2003)