

CHAPTER 163

HAWKERS, PEDDLERS AND ITINERANT VENDORS

[HISTORY: Adopted by the Board of Selectmen of the Town of Pembroke 8-2-2006.

Editor's Note: this ordinance also repealed former Ch. 163, Hawkers, Peddlers and Itinerant Vendors, adopted 10-5-1992.

Amendments noted where applicable.]

§ 163-1 Statutory authority.

In accordance with, and under the authority of, New Hampshire Revised Statutes Annotated, Chapter 31, Section 102-a; Chapter 320, and Chapter 321, the Pembroke Board of Selectmen hereby adopts the following provisions for licensure and regulation of hawkers, peddlers and itinerant vendors, and authorizes the Pembroke Police Chief to issue permits for Hawkers and Peddlers and Vendors.

§ 163-2 Purpose.

A. It is the express intent and purpose of this chapter to strictly regulate the conduct of hawking, vending and peddling within the Town of Pembroke, through the issuance of permits for the conduct thereof, to protect the welfare of the citizens and to prevent undesired, unhealthful and criminal activity.

B. Nothing in this chapter shall be deemed to be the making of a promise, or the undertaking of a special duty with any person; nor shall the provision of, or failure to provide such licenses or to undertake particular inspections or types of inspections be deemed to create a special relationship or duty towards any person upon which an action in negligence or nay [sic] other tort might be founded.

§ 163-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

HAWKER and PEDDLER - Shall mean and include any person, either principal or agent, who:

- A. 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, vehicle or any other means of conveyance; or
- B. 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
- C. 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.

ITINERANT VENDORS - Shall mean all persons, 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 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.

§ 163-4 Exceptions.

The provisions of this chapter shall not apply to any nonprofit or government 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; or participating in a community event approved by the Board of Selectmen.

§ 163-5 Licenses and fees.

In granting any license authorized pursuant to this chapter, the Chief of Police shall be governed by the following minimum standards:

A. All licenses shall be for specific times, dates and locations which shall be set forth in writing by the Chief of Police on each license issued.

B. Every hawker and peddler, before making any sales of goods, wares, merchandise or services in the Town of Pembroke shall apply to the Chief of Police for a license and shall accompany such application with:

(1) A copy of their Hawkers and Peddlers License, issued by the Secretary of State for the State of New Hampshire.

(2) An application fee of \$100 for the first week and \$25 for each week thereafter so long as the weeks are consecutive. This fee will be made payable to the Town of Pembroke in the form of a bank, cashier or certified check. The license will remain in effect for not more than 90 calendar days from date of approval.

(3) A copy of the principal and any agent's criminal record from the State in which they reside as well as from the State of New Hampshire.

(4) A copy of the principal and any agent's state issued picture Identification card.

(5) A copy of their State Food Service License, if serving food.

(6) A residential address, business address, and residential and business telephone numbers, if applicable, and such other information as will assist the Board of Selectmen to carry out its duties pursuant to this chapter.

C. The Chief of Police may deny any application for licensure if the required information is not provided or if any of the circumstances which would justify revocation of a license under § 163-10 of this chapter exist.

§ 163-6 Standards of conduct.

All licensees shall be governed by the following general restrictions, however, the provisions of this sections [sic] shall not be construed to limit any other standards that may be established for specific activities pursuant to the provisions hereinafter imposed:

A. No activity shall take place within any travel [sic] portions of a street, or highway, and no materials, goods, or other items shall be placed or located within the traveled portions of any street or highway.

B. No activity shall be conducted upon any sidewalk so as to hinder or interfere with the normal and usual pedestrian travel and use. No activity, including but not limited to, the congregation of customers and sales transactions to customers, shall take place whatsoever within three feet of the pavement of any traveled street or highway.

C. No activity, including but not limited to, the congregation of customers and sales transactions to customers shall be conducted within three feet of any entrance or exit to any occupied building or structure unless written approval by the owner thereof has first been obtained and a copy of said approval has first been delivered to the Board of Selectmen.

D. No activity shall be conducted within 10 feet of any other lawful activity being conducted upon town property or interfere with such activity in any manner.

E. All activities where minors are employed shall be subject to all statutes and administrative regulations dealing with the employment of minors.

F. Any activity proposed to take place on land or in buildings of someone other than the applicant shall be accompanied by written permission of the land or building owner.

G. Any request to solicit business in or upon the public parks of the Town of Pembroke shall require the prior written permission of the Board or Commission in charge of such public park before a license will be issued.

H. No person shall orally solicit for himself, others, or conduct any business of any kind upon the streets or highways of the Town of Pembroke. No person shall stop any motor vehicle upon the streets or highways within the Town of Pembroke for the purpose of soliciting business of any kind.

I. No hawker, peddler or vendor shall operate between the hours of (9:00 p.m. and 8:00 a.m.) on any day.

§ 163-7 Records.

The Town of Pembroke shall keep records of all licenses issued with the number of each, the names and residences of the persons licensed and the sums received therefore, and all such records shall be open for public inspection.

§ 163-8 Endorsing and exhibiting license.

Every person licensed as a hawker or peddler shall endorse his usual signature upon his license. When this license is demanded of him by a selectman, town clerk, police officer or the person to whom he sells or offers or exposes for sale his wares, he shall forthwith exhibit the same; and, if he neglects or refuses to do so, he shall be liable to the same penalty as if he had no license.

§ 163-9 Term and transfer of permit.

A. All licenses issued under the provisions of this chapter shall bear the date on which they are issued and shall continue in force, subject to this chapter, unless revoked by the Chief of Police in accordance with § 163-10 of this chapter. Any hawker or peddler who does not comply with the requirements for license renewal under this chapter shall be subject to the same penalty as if he had no license.

B. Said licenses may not be transferred.

§ 163-10 Revocation of licenses.

A. Any license granted by the Town of Pembroke may be denied and/or revoked:

(1) Upon conviction of the licensee of any offense which in the judgment of the Chief of Police warrants such revocation;

(2) Upon the submission to the Town of Pembroke of evidence sufficient to demonstrate that, during the term of the license, and acting under cover thereof, the licensee has accepted or solicited money, otherwise than through a bona fide sale or barter of goods, wares or merchandise or has in any manner solicited alms from the public, or;

(3) Upon a finding that the applicant has willfully falsified his application for license or;

(4) Upon consideration of evidence that the holder of said license is insane, a sexual psychopath, is or has been guilty of crimes against persons or property or whose conduct has been otherwise disorderly and is of such violent or offensive demeanor that to permit him to retain such license would constitute a threat to the peace or safety of the public or;

(5) If the holder of said license is at large pending appeal from a conviction for a violation of the law involving extreme moral turpitude.

B. Any person whose license has been revoked under this section shall be ineligible to be licensed as a hawker or peddler in the Town of Pembroke.

C. The Chief of Police will notify the Secretary of State for the State of New Hampshire of any person whose license has been revoked.

§ 163-11 Violations and penalties.

Any person who fails to obtain a license as herein required shall be guilty subject to a penalty of \$100 for each and every day during a portion of which any violation of this chapter is committed.

§ 163-12 Loss of paid fees for revocation.

The revocation of a license issued under this chapter shall not entitle the license holder to a refund of any of the fees paid for the issuance of the license revoked.

§ 163-13 Appeal.

Any person whose license is denied or revoked under this chapter shall have the right of appeal to the Board of Selectmen.