

REGULATIONS: VENDING ON TOWN PROPERTY:

SECTION I : AUTHORITY:

These Regulations have been enacted pursuant to the authority granted the Board of Selectmen of the Town of Windham by NH RSA 41:11-a (Town Property), which allows the Board of Selectmen of the Town to adopt regulations to govern the use of Town owned property.

SECTION II : PURPOSE:

The purpose of this document is to provide for regulations pertaining to the sale of consumable goods on Town Property including hours of operation, allowed locations, and permits required.

SECTION III : DEFINITIONS:

- A) VENDOR - As used herein, shall refer to an individual or corporation traveling from place to place by vehicle and carrying within it consumable goods for the purpose of selling them to consumers, or; an individual or corporation traveling from place to place for the purpose of temporarily offering consumable goods to patrons.
- B) VEHICLE - As used herein, shall refer to self-contained motorized automobiles, vans, and trucks as well as human propelled portable wagons, pushcarts or similar modes of transportation wherein a vendor may offer consumable goods to patrons.

SECTION IV: AUTHORIZED TOWN LOCATIONS FOR SALE OF PRODUCT:

A vendor may sell products allowed in Section V at the following Town properties:

1. All Town recreational facilities with the exception of Griffin Park, which is strictly prohibited.
2. The Town Beach on Cobbetts Pond – Parcel 21-H-1A.

SECTION V: ALLOWED ITEMS FOR SALE

Vendors may offer for sale food products including, but not limited, to hot dogs, popcorn, ice cream, ice cream products, water ices, frozen water products or frozen confectionery products.

SECTION VI: APPLICATION FOR PERMIT:

No vendor shall sell, solicit, dispose of or offer their goods for sale unless they possess a current hawkers and peddlers license from the State of New Hampshire and obtain a town permit issued by the Windham Board of Health or designee in accordance with the following procedure.

- A) Applicant shall complete, in writing, a permit application on forms approved by the Board of Health.
- B) The application shall be filed with the Health Department and shall set forth the following information:
 - 1. The name, social security number, and permanent home address of the applicant at the time of the application.
 - 2. The name, federal identification number, and address of the firm represented, if any.
 - 3. All permanent home addresses of the applicant within the past three (3) years.
 - 4. A list of at least two (2) references.
 - 5. Attached copies of insurance certificates which cover both general liability as well as automobile liability. Insurance certificates must cover all parties involved with an application and must be applicable in New Hampshire.
 - 6. A list of all drivers who may operate vehicles or equipment covered by the permit for which the application is submitted.
 - 7. A description of any vehicle to be used including:
 - a. The name and address of the owner of the vehicle as registered with the applicable State Division of Motor Vehicles.
 - b. A description of the vehicle including the year, make, model and vehicle identification number. In addition, the name of the person and any other insignia appearing thereon shall be noted.
 - c. If the applicant is not the owner, the interest of the applicant in said vehicle.
 - d. If any person, other than the applicant, has any interest whatsoever in the vehicle, the name and address and interest of each such person.
 - e. Proof of valid state vehicle registration as well as current inspection sticker.

- C) If the applicant is an employee or representative of any other person or corporation, there shall be attached to the application a letter from the employer or principal authorizing the applicant to act as their representative.
- D) The Board of Health shall review the application and may conduct a background check of the applicant, the business, and all listed drivers and operators of applicants equipment independent of any State initiated background check undertaken as part of a State license process. The background check will be conducted by the Board or their designee. The cost to attain a State criminal background and motor vehicle driver's record check shall be the responsibility of the applicant. If the Board determines the applicant's character and business responsibility to be satisfactory and the products proposed to be sold, disposed of or offered for sale comply with all State laws and local regulations/policies relating to food and food products, a permit shall be issued by the Health Department upon receipt of applicable fees. The Board of Health shall consider the following in their review:
1. The number of years the applicant has been engaged in the sale of the specific food product(s).
 2. The extensiveness and quality of the applicant's line of products to be offered for sale to the public.
 3. Whether the applicant has previously had a permit to peddle within the Town or adjoining communities.
 4. Whether the applicant has been convicted within the prior twelve (12) months of any offense against the laws of New Hampshire or the regulations of the Town relating to peddling.
 5. Whether the applicant is a person of good moral character and has a good business reputation within the Town.
 6. Any other factors relating to the applicant deemed relevant by the Board of Health in determining whether the issuance of a permit will best serve the general welfare of the residents of the Town.

SECTION VII – PERMITS ALLOWED AND DISTRIBUTION

The Board of Health reserves the right to limit the number of permits allowed in any given year. Should permits be limited the number of permits to be allowed shall be determined by the Board by November 30th and shall be distributed based on a public bid process or lottery drawing as determined by the Board.

SECTION VIII: PERMIT FEE AND GENERAL RESTRICTIONS.

- A) Permits issued shall not authorize any person, except the person or person(s) designated on the permit, to engage in business thereunder. The permit shall not be transferable from person to person.
- B) Permits issued under these regulations shall be valid for a term of one (1) year; beginning on the first day of January 1st the year of issuance, effective April 15th annually, and terminating on December 31st of the same year.
- C) Permits issued by the Town shall be displayed at all times on a conspicuous part of the vehicle used by the vendor in the conduct of their business. In the case of a portable unit, the permit shall be carried by the vendor and shall be exhibited on demand of any resident of the Town, Town official, or member of the Police Department.
- D) The annual permit fee to sell on permitted Town properties shall be established by the Board of Selectmen in accordance with RSA 41:9-a and shall be charge for each wagon, pushcart, automobile, or other vehicle in which the products are carried or from which they are sold.

SECTION IX: COMPLIANCE WITH FOOD LAWS

All products sold, disposed of or offered for sale under this policy shall comply with any and all laws of the State of NH and the Town of Windham relating to food and food products.

SECTION X: RULES GOVERNING VENDING OPERATIONA) Motor Vehicles –

- 1. The sale of products from a motor vehicle (ie: ice cream truck) may only occur to the rear of or on the passenger side of the vehicle.
- 2. Safety warning flashers shall be in operation immediately upon the truck stopping to vend and shall cease operating as the truck begins to move after vending.
- 3. No vendor shall use, play, or employ any sound, outcry, amplifier, loudspeaker, or any other instrument or device for the production of sound from a vending vehicle for the purpose of selling or promoting any product when the vehicle is stationary.
- 4. Each operator shall, at all times, maintain each of their vehicles as follows:
 - a. All doors, windows, hood and trunk shall open and close securely;
 - b. The inside of the vehicle shall be clean, sanitary and free of litter and trash;

- c. A trash receptacle shall be accessible to the public when sales occur in which patrons can place package wrappers and trash;
 - d. The exterior of the vehicle shall be clean and in good repair
 - e. Decals advertising products and price lists shall be placed only on the rear and/or passenger side of the vehicle; and
 - f. Any refrigeration system shall properly function.
 - g. All vehicles shall have signage on the front and back using black four-inch tall letters on a yellow background with a black one inch border around each sign. The sign on the front and back of each vehicle shall read "CHILDREN CROSSING" and shall be no less than eight inches high by 48 inches wide. An additional sign or signs of the same size shall be painted or mounted on the rear of each truck above the first sign and shall read 'WARNING' using the same size letters and paint color.
5. Each vendor shall prominently display on board their vehicle all current, written certifications, licenses, and permits required by the State of New Hampshire as well as the Town of Windham, or copy thereof.

B) Pushcarts, Wagons, and Similar –

1. Each operator shall, at all times, maintain their unit as follows:
 - a. Compartmentalized areas shall be clean and sanitary;
 - b. The unit exterior shall be clean and in good repair;
 - c. Any refrigeration system shall properly function.
2. Each vendor shall have in their possession and display upon demand all current, written certifications, licenses, and permits required by the State of New Hampshire as well as the Town of Windham, or copy thereof.

SECTION XI: INSPECTIONS

Prior to the effective date of the permit, April 15th, vendor shall submit their vehicle for inspection by the Board of Health or designee and the Police Department. Failure to do so will result in revocation of the vendors permit.

In addition, the Board of Health or designee and the Police Department shall jointly be responsible to conduct inspections during anytime the town has reasonable cause to believe a violation of these Regulations may have or are occurring, particularly in terms of Section X above.

SECTION XII : ENFORCEMENT:

These Regulations are enforceable by the Windham Board of Health or designee as well as the Windham Police Department.

SECTION XIII : PENALTIES:

Any person who violates the provisions of these Regulations shall be guilty of a violation as provided in RSA 41:11-b, and may be subject to the penalties as provided under New Hampshire law, including, but not limited to a fine not exceeding \$1,000 (*See, RSA 651:2*) and may have their permit to sell on Town Property revoked by the Board of Health.

SECTION XIV : WAIVERS:

The Windham Board of Selectmen reserves the right, for cause shown, to make special exceptions and/or waive any portion of these Regulations.

SECTION XV : SEVERABILITY:

If any provision of these Regulations is held to be invalid, other provisions and sections shall not be affected, and to this end, the provisions and sections hereof are declared to be severable.

SECTION XVI - AMENDMENTS:

These Regulations shall be adopted, and subsequent amendments shall be adopted from time to time by the Board of Selectmen, following the conduct of a public hearing, notice of which shall be posted in two (2) or more public places, or published in a newspaper of general circulation not less than ten (10) days prior to the public hearing.

SECTION XVII - ADOPTION:

These Regulations shall take effect immediately upon adoption of the Board of Selectmen.

Approved by the Board of Selectmen this 4th day of June, 2007.

Alan Carpenter
Dennis Senibaldi
Roger Hohenberger
Margaret Crisler
Bruce Breton
Board of Selectmen