

Shelburne

Peddlers Ordinance

Adopted: October 13, 1987

Amended most recently: May 10, 2016

ORDINANCE

THE SELECTBOARD OF THE TOWN OF SHELBURNE HEREBY ORDAINS:

I: General Provisions

A. Purposes

To regulate the activities of peddling within the Town of Shelburne for the protection of the public health, safety, welfare, and convenience, to maintain safe and efficient pedestrian and automotive traffic movement, and to protect the residents of Shelburne from unscrupulous, fraudulent and immoral business practices.

B. Authority

This ordinance is adopted pursuant to the authority conferred by 24 V.S.A. §2291(9) and Section 1.6 of the Town Charter.

C. Definitions

“Peddler” - Any person whether a resident of the Town of Shelburne or not, who shall sell or offer goods, wares, merchandise, meats, pastries, fish, vegetables, fruits, other farm products, or other provisions, or food, from a wagon, automotive vehicle, boat, push cart, van, railroad car, other vehicles of conveyance, or temporary structures or stands. The word “peddler” shall also include the words “hawker”, “street Vendor” and “huckster”, but shall not include a farmer who is selling produce from his own farm on his own land. Peddler shall not include any of the following: delivery type of service (i.e. UPS, FedEx, food deliveries); Food Truck as defined and regulated by the Town of Shelburne Food Truck Ordinance; Farmers Market as defined and regulated by the Town of Shelburne Zoning Bylaws. Traveling – Means moving along the Town streets with a motor vehicle for the purpose of selling goods (i.e. ice cream, vegetables, etc.) which does not include door-to-door sales.

Door-to-door – Means going by foot from one building to another building for the purpose of selling goods or services.

“Sponsor” - Any individual or organization with which a peddler is economically affiliated, in relation to peddling, in an employer-employee, master-servant, independent contractor, agency, joint venture or similar arrangement.

Zoning Administrator – The Town of Shelburne Zoning Administrator, or his or her designee.

D. Exclusions

This ordinance shall not be construed as impairing the rights conferred by 24 V.S.A. §2181.

II: Licensing of Peddlers

A. License Required

It shall be unlawful for any resident or nonresident to engage in peddling activities within the town without first obtaining a license therefore pursuant to this section.

B. Application

Peddlers shall file an application with the Town Zoning Administrator on a form provided by the Zoning Administrator. Application shall include a license fee, and shall provide the following information:

- (1) Applicant's name, home and business addresses, and telephone numbers.
- (2) Name, address, and telephone number of employee(s) (no more than two).
- (3) If employed, name, address, and telephone number of applicant's employer or sponsor of applicant's peddling activities, together with credentials establishing the exact relationship.
- (4) A description of the goods to be peddled, the manner and locale to be used in offering goods for sale, and the duration of time desired for the right to do business, including the dates (See Duration/Fee Schedule).
- (5) If a motorized vehicle or trailer is to be used, a description of same, together with license number, registration number or any other means of identification.
- (6) A statement as to the dimension, construction and appearance of the applicant's stand or cart and sign, if any.
- (7) A photograph of the applicant and any employees taken within sixty (60) days of the date application is filed, which picture shall be 2 inches by 2 inches clearly depicting applicant's head and shoulders.
- (8) A statement of whether the applicant has been convicted of any crime, misdemeanor or municipal ordinance violation, including a description of the offense and the penalty assessed therefore.
- (9) If goods are to be peddled on private property, a letter is needed from the property owner consenting to the peddling activity. If goods are to be peddled on any public property other than a public right-of-way, a letter is needed from the Shelburne Town Manager authorizing the peddling activity.
- (10) Identification of any liability insurance policies, with a statement of policy limits, available to cover any injury or damage resulting from the applicant's activities in the Town of Shelburne.

C. Application Review

Application will be granted when it is found that the use of the license will not violate Shelburne's Zoning bylaw and any permit or approval granted thereunder and further will not adversely affect: (1) traffic, (2) the public good, or (3) character of the area. The Town Zoning Administrator shall preliminarily review each application for accuracy, completeness, and compliance with the terms of this ordinance. The application shall then be referred to the Town of Shelburne Police Department for investigation in respect to the protection of the public good and previous criminal convictions of both applicant and employees. The Chief of Police shall make a report of such investigation and shall return the same to the Zoning Administrator in determining whether or not a license shall be issued. The Zoning Administrator shall either issue or deny a peddler's license within fourteen (14) days of their receipt thereof. Said time period may be extended by the Zoning Administrator upon written notice to

the applicant if unusual circumstances so require. Denial of a license shall be accompanied by a written statement of grounds for such denial. The applicant may appeal denial of a license to the Town of Shelburne Selectboard within seven (7) days of the Zoning Administrator's decision.

D. Service of Process

Prior to the issuance of a license pursuant to this ordinance, the applicant shall file with the Town Clerk an instrument nominating and appointing the Town Clerk his true and lawful agent with full power and authority to acknowledge service of notice or process for and on behalf said applicant in respect to any matters connected with or arising out the business transacted under said license. The instrument filed with the Town Clerk shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon the Town Clerk, and when so made shall be taken and held to be valid as if personally served upon the person or persons applying for the said license under this ordinance, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service. Immediately upon service of process upon the Town Clerk, as hereinabove provided, the Town Clerk shall send to the licensee at, his last known address, by registered mail, a copy of said process. As a courtesy, the Town Clerk may send a copy by electronic mail to the licensee's last known email address.

III: License Limitations

A. Transfer/Display/Employees

Each license shall authorize the conduct of peddling activities throughout the geographic limits of the Town. No license issued pursuant to this ordinance shall be displayed or used by any individual other than the person to whom it is issued or employees specifically designated on said license. The licensee shall display his/her license at all times when conducting peddling activities. A license may be used by up to two (2) employees of the applicant if said employees are listed on the applications and noted on the face of the license. A license shall only be effective for a single location at any given time. A licensed peddler and his/her employee(s) shall not simultaneously peddle at different locations, without obtaining separate permits for each location.

B. License Issuance/Duration/Fees

There shall be four types of peddler's licenses available for issuance under this section, as follows:

- (1) One Week License: seven (7) day or less period of time; fifty (\$50) dollars
- (2) One Month License: thirty (30) day or less period of time; one hundred (\$100) dollars.
- (3) Three month License: ninety (90) day or less period of time; two hundred (\$200) dollars.
- (4) Twelve month License for Traveling Peddlers: One year or less period of time; three hundred (\$300) dollars. This license is for a license for a peddler who sells goods from a motor vehicle while traveling the Town streets and has no door-to-door sales. The motor vehicle under this license can only stand for short periods of time for the purpose of delivering the goods sold.

IV: Peddling Regulations

A. Cause for License Revocation

Breach of any provision of this ordinance shall be cause for license revocation and any other remedy set forth in Section V below.

B. Prohibited and Regulated Locations

Peddling within the state and town traveled highway right of way is discouraged; however, no peddling is permitted between the curbs (on the traveled portion) of the following roads: Shelburne Road, Falls Road, and Harbor Road. Peddlers who must utilize state and town highways shall operate so as not to interfere with the free flow of traffic.

C. Nonexclusive Location

No peddler shall be entitled to any exclusive location.

D. Traffic Interference

Peddling activities shall not be conducted in such a manner as to obstruct or interfere with motor vehicle traffic on the traveled portion of any Town road, nor shall a peddler conduct activity in a locale which is not clearly visible to oncoming traffic. Peddling activities shall not interfere with pedestrian movement, block sidewalks, or obstruct crosswalks. No peddler shall operate in a manner which obstructs official traffic signs. No peddling is permitted between the curbs (on the traveled portion).

E. Parking

All peddlers must provide an adequate amount of parking area for the maximum number of visitors anticipated. No parking area shall obstruct or interfere with the free flow of traffic. Vehicles operated by the licensee or employee shall be parked in areas that are not generally used by customers or the general public.

F. Signs

Peddlers shall be limited to the use of only one sign promoting his/her activities which sign cannot be in excess of ten (10) square feet in surface display area nor stand more than four feet above the ground level. For the purpose of this ordinance banners, pennants, flags and other similar items shall be considered signs. No sign shall be affixed to public or private property without obtaining prior approval therefore from the owner of said property. No sign shall be placed in such a manner as to obstruct or interfere with the traffic. The use of signs with moving parts or illuminated signs that create the appearance of movement are prohibited. The use of string lighting, internally lit and flashing signs are prohibited without the prior written approval of the Town Zoning Administrator. All signs shall be removed at the expiration of the period for which the peddler's license has been granted.

G. Noise

No peddler, nor any person on his behalf, shall shout, cry out, or use any sound device, including horns, bells, loud speaking radio or sound amplifying systems, from the Town's streets, sidewalks, or other public property in a manner which disturbs the peace or constitutes a public nuisance.

H. Offensive Practices

No peddler shall physically accost, restrain or otherwise interfere with the free movement of any individual during the course of peddling activities, nor shall any peddler engage in misleading, fraudulent or offensive business practices.

I. Other Standards

The following performance standards shall apply to all license holders.

- (1) All peddling equipment, trailers, and related items shall be removed from the vending location each night or at the end of the business day. Vending equipment may be stored in a permanent structure or building so that equipment is not visible to the public.
- (2) Peddlers may only operate between sunrise and 9:00 PM.
- (3) Peddlers shall maintain the peddling location in a clean and neat state and are responsible for the appropriate disposal of all trash or garbage generated by their operations or by patrons thereof.
- (4) Peddlers may not dump or otherwise dispose of greywater or any wastewater on site. Peddlers may not dispose of greywater in Town or privately-owned catch basins or sewer basins.
- (5) Peddlers shall not operate within ten (10) feet of any and all adjacent property boundary lines without prior written consent of the adjacent property owner. Such written permission must be submitted with any application seeking authorization to operate within ten (10) feet of any and all adjacent property boundary.

V: Enforcement

A. Penalty

Each violation of this ordinance shall be subject to a \$200.00 fine; each day a violation continues shall constitute a separate offense. A peddler operating without a license is subject to the same penalty.

B. License Revocation

A peddler's license may be revoked or suspended by the Town Manager, his or her designee, or the Zoning Administrator without reimbursement of any fee for:

- (1) Misrepresentations on an application;
- (2) Shelburne Police Department or Selectboard determination that peddler's conduct demonstrates a lack of suitable business or moral character.
- (3) Conviction of a federal or state law violation or Town ordinance.
- (4) Violation of the provisions of this ordinance or other Town of Shelburne Regulations.

C. Enforcement

This ordinance may be enforced by the Town Manager, Town Zoning Officer, or any Town Police Officer. Any violation of this ordinance may be enforceable by injunction or other action available at law. In issuing a summons, the enforcing officer may enforce this Ordinance in the Vermont Judicial Bureau and may be the appearing officer at any hearing. Should the enforcing officer seek further relief, including injunctive relief, the enforcing officer may bring an action in the name of the Town of Shelburne in the Vermont Superior Court, Civil Division, Chittenden Unit to compel compliance with this Ordinance.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 *et seq.*

VI: Exemptions

A. Small Scale and Short Duration Fixed Location Peddling

The following types of peddling conducted at Fixed Locations shall be exempt from the provisions of this ordinance.

- (1) Lemonade, Ice Tea, and similar cold drink outdoor tables or stands located on private property and operated fewer than seven (7) days per month or where the total volume of unbottled beverages sold per month is less than twenty (20) gallons gross.
- (2) Sidewalk Bake Sales and similar outdoor tables or stands located on commercial property and operated fewer than seven (7) days per month and where activities do not encroach on any public sidewalk or right of way.

B. Transient Peddling

The following types of transient peddling shall be exempt from the provisions of this ordinance.

- (1) Sales of cookies or other food or non-food items conducted for the purpose of raising funds for schools, including individual classes or groups within a school, or for not-for-profit organizations whose mission focuses on activities relating to individuals under the age of 18.

VII: Applicability and Severability

A. Applicability

This ordinance controls only those activities treated and does not supersede any state or federal law or consistent local regulation.

B. Severability

Any part or provision of this ordinance shall be considered severable and the invalidity of any part or section shall not be held to invalidate any other part or provision of this ordinance.

VIII: Effective Date

This ordinance shall take effect from passage.