

CHAPTER 124

STREET VENDING, PEDDLING AND SOLICITING

[HISTORY: Adopted as Ordinance #93-04 on March 1, 1993 by the Durham Town Council. Limiting street vending, peddling, soliciting and other commercial activities. All amendments included at time of adoption of Code].

Article I **GENERAL PROVISIONS**

124-1. Purpose and Intent.

The purpose of this chapter, pursuant to RSA 31:102-a and Section 3.8 of the Durham Town Charter, is to limit and properly regulate the practice of street vending, peddling and soliciting for the following reasons:

- A. To protect and promote the public health, safety and welfare of its citizens.
- B. The Durham Town Council finds that the primary purpose of the public streets, sidewalks, and rights-of-way are for general vehicular, pedestrian and bicycle use; and
- C. The Durham Town Council finds that certain commercial activities on these public places can create and cause a safety hazard and interfere with the public use of streets, sidewalks and rights-of-way.

124-2. Definition of Activity.

This chapter shall control any buying or offer to purchase any items, selling or display or offering for sale of food, beverages, merchandise or services of any kind, whether by a person or from a stand or motor vehicle or otherwise within the areas affected. These activities may be known or referred to as street vending, peddling, soliciting, hawking or itinerant vending.

(Section 124.2 amended by Ord. #2012-10 dtd 9/24/12)

124-3. General Prohibition.

Street vending, peddling, soliciting, hawking and itinerant vending, as defined in RSA 320:1, RSA 321:1 and RSA 31:102a, is prohibited on the public ways and properties in the Town of Durham except as permitted by the Town pursuant to this chapter and only in compliance with the terms of this chapter.

124-4. Prohibited Vendor Conduct

A vendor is a peddler who for the purpose of this ordinance on public property buys or offers to purchase, sells or offers to sell food, beverage or merchandise from a stand, motor vehicle or his person. A vendor shall not:

- A. Engage in vending which impedes pedestrian or vehicular traffic.
- B. Engage in vending which is not itinerant in nature and at no time park permanently or temporarily in any designated "No Parking" zone.
- C. Engage in vending which violates the standards and regulations of this chapter and the provision of State statutes regulating hawkers, peddlers, and itinerant vendors.
- D. Engage in vending in the Downtown area, between Tax Map Numbers 4-1-0 & 4-7-0, and Tax Map Number 2-14-4, and Jenkins Court between Main Street and Pettee Brook Lane.
- E. Create or cause to be created any human or mechanical noise in connection with voices which creates a nuisance to the surrounding area.
- F. Engage in street vending at any time except during Daylight Savings Time between 9:00 A.M. - 8:00 P.M, and during Standard Time between 9:00 A.M. - 4:00 P.M. (*Section 124.4 amended by Ord. #2012-10 dtd 9/24/12*)

124-5. Special Provisions for Downtown Sidewalk Sales.

- A. The owner of a retail store may display merchandise normally located within the store on a sidewalk immediately abutting the store thirty (30) days in each calendar year. An annual outdoor display permit shall be issued for this purpose by the Code Enforcement Department based on the standards set forth in Section 7 of this chapter, excluding Sections 124-7(B, C & D), unless prior violations have been documented at this property address.
- B. In no case shall any displays leave less than six (6) feet in width of the sidewalk unobstructed. (*Section 124-5 amended by Ord. #2007-07 dtd 6/4/07*)

124-6. Exemptions.

- A. Any public event sponsored by a non-profit organization (such as a "Festival on the Green") provided that any concessions or sales must be directly related to the event and must be included in the public assemblage permit approved for the event.
- B. Any event which takes place in Town recreation areas and is a part of a Town-sponsored event or has the express written permission of the Town Administrator.
- C. Any event which takes place on land owned or controlled by the public school system and has the express written permission of the principal of the school in question.
- D. Any auction or other activity which takes place in or at the Municipal Building and has the express written permission of the Town Administrator.

124-7. Permit Procedure.

- A. A person either on his own behalf or on behalf of a group of persons, wishing to conduct any type of street vending shall file with the Town Administrator an application containing:
 - 1. The name, address, and phone number of the applicant;
 - 2. The nature and type of activity;

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3. The name and/or names of the businesses covered under the permit;
 4. If vehicular in nature, the name of any individual who drives, and a copy of their license;
 5. Copies of applicable NH State licenses; and
 6. Any additional information of a reasonable nature that the Town Administrator feels is necessary to ensure the public's safety.
- B. Each permit shall be reviewed by the Chief of Police, Director of Public Works, Director of Planning and Zoning, and the Fire Chief.
- C. The owner of any street vending operation must have and be able to demonstrate appropriate liability insurance, and have all applicable New Hampshire State permits.
- D. The permit fee for street vending will be an initial application charge of \$50 and \$100 per week. *(Section 124-7(D) amended by Ord. #2008-19 dtd 12/01/08)*

124-8. Official Action on the Permit.

- A. The Town Administrator or his/her designee shall determine whether the applicant has:
1. Submitted a complete and accurate application;
 2. Met the provisions and purposes of the chapter; and
 3. Provided adequate arrangements to ensure the safety of the public persons covered under the permit, and the prevention from damage of public and private property has been provided for.
- B. Upon consideration of all items in Section 6, the Town Administrator has the authority to approve or disapprove the application. This decision shall be based on a finding by the Town Administrator that the applicant has met the standards stated in Section 7A above. In either case, a decision must be made no later than five (5) working days after receipt of the application. If the application is disapproved and the permit is denied, the Administrator shall provide written reasons to the applicant at the time of notification of disapproval of application and denial of permit. Permit applications may be obtained during normal business hours from the Town Administrator's Office.
- C. The Town Administrator may amend or revoke a permit if it appears that the arrangements contained in the permit will no longer prevent injury to person or property due to a change in circumstances under which the permit for possession was granted.

124-9. Appeal Process.

A person may appeal to the Town Council the denial of a permit by filing a written notice within five (5) working days of denial of the permit. The Town Council shall forthwith consider the appeal at a hearing at which the applicant is present. The Town Council may affirm or reverse

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the Town Administrator's decision, or attach such additional conditions to the permit as will, in their best judgment, protect the public safety and persons covered under the permit, and the prevention from damage of public and private property.

124-10. Enforcement.

- A. A person who violates any provision of this chapter shall be fined not more than \$1,000.
- B. Upon the neglect or failure of a person responsible for a sidewalk display or vending cart to promptly comply with an order to remove the same, a police officer may remove it or cause it to be removed and the Town may recover the expense of such removal from the person responsible.