

CITY OF CONCORD

In the year of our Lord two thousand and twenty-two

AN ORDINANCE amending the CODE OF ORDINANCES, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, Article 15-8, Peddlers

The City of Concord ordains as follows:

SECTION I: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, by deleting in its entirety Article 15-8, Peddlers, and replacing it as follows:

15-8-1 License Required—Peddler.

A person shall not engage in the business of peddler, as defined in Section 15-8-2, within the City of Concord without first obtaining a license as provided herein.

15-8-2 Definitions.

For purposes of this Article, the following definitions shall apply:

Central Business District. Those areas zoned Central Business Performance District (CBP).

Motor vehicle. Any vehicle used for the displaying, storing, or transporting of articles offered for sale by a vendor which is required to be licensed and registered by the Department of Motor Vehicles.

Peddler. As used herein shall be as defined in RSA 320:1 and shall include any person, whether a resident of the City of Concord or not, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, stand, automotive vehicle, railroad car, or other vehicle or conveyance and includes one who solicits orders and as a separate transaction makes deliveries to purchasers. The word "peddler" shall include "hawker," "vendor," and "huckster.

Public property. Any city owned or controlled property including, but not limited to, streets and sidewalks.

Sell. Shall include any offer to sell or attempt to sell.

Stand. Any table, showcase, bench, rack, push-cart, wagon, or any other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles, used for the displaying, storing or transporting of articles offered for sale by a peddler.

15-8-3 Application for Peddler License.

The license required by Section 15-8-1 shall be issued in accordance with the General Licensing Ordinance, Article 15-10. The application for a peddler license shall include, in addition to the information required by the General Licensing Ordinance:

- (a) The name, home and business address of the applicant, and the name and address of the owner, if other than the applicant, of the business and of any stand or motor vehicle to be used in the operation of the business.*
- (b) A description of the type of food, beverage or merchandise to be sold, and in the case of products of farm or orchard, whether produced or grown by the applicant.*
- (c) A statement describing the dimensions and a photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.*
- (d) A food service establishment license in accordance with Section 13-5-4 for any peddler selling or otherwise offering food and beverages to the general public, as well as certificate of inspection.*
- (e) A certificate of insurance or other proof acceptable to the Licensing Officer that the applicant has been issued an insurance policy by an insurance company licensed to do business in the State of New Hampshire, protecting the licensee and the City from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the license. Such insurance shall name the City as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date except with thirty (30) days advance written notice to the City. Such policy shall provide coverage in the amount of one million dollars (\$1,000,000.00) for personal injury and five hundred thousand dollars (\$500,000.00) for property damage.*
- (f) A description of the proposed location of the business together with written authorization from property owner(s) to the extent required.*
- (g) The hours and days of the week during which the applicant wishes to operate.*

15-8-4 License Fees.

- (a) Peddler License Fee.** *Except as otherwise provided in this Chapter, the fee for each license shall be listed in Schedule I of Chapter 1, and shall be payable at the Code Administration office at the time the application is filed. In the event that two (2) or more applications for a peddler license to operate on public property for the same location are received, the license shall be awarded to the highest bidder.*
- (b) Public Property Rental Fee.** *In addition to the peddler license fee, a peddler seeking to operate on public property shall be required to pay rental fees to the extent applicable for use of the public property when required by the department responsible for managing and overseeing the property. In such instance, the bidding requirements for the peddler license in paragraph (a) shall not apply.*

15-8-5 Issuance.

- (a) Review and Issuance of License.** *No later than thirty (30) days after the filing of a completed application for a peddler's license, the applicant shall be notified by the Licensing Officer of the decision on the issuance or denial of the license. The Licensing Officer shall consider the standards set forth in this Article and the General Licensing Ordinance in determining whether to grant a license, including but not limited to whether the dimension and design of vending stands are acceptable to the Licensing Officer in light of the physical and architectural conditions existing in the area where the license is being requested. The Licensing Officer shall further have the authority to set the hours of operation. If the issuance of the license is approved, the Licensing Officer shall issue the license. All food and beverage peddler businesses shall be inspected at least biannually by the Health Officer.*
- (b) Denial of License.** *If the license is denied, the applicant shall be provided with a statement of the reasons therefore which reasons shall be entered in writing on the application. The applicant shall be entitled to a hearing pursuant to Section 15-10-11. All licenses issued under the provisions of this chapter shall expire on April 30 annually.*
- (c) Renewal of License.** *An application to renew a license shall be made no later than thirty (30) days before the expiration of the current license.*

15-8-6 Entry Upon Premises Unlawful.

A person required to be licensed or registered under the provisions of RSA 320 or this Article, while conducting the business of a peddler, shall not enter upon any residential premises in the City:

- (a) Between the hours of 8:00 p.m. and 9:00 a.m.; or***
- (b) Where the owner, occupant, or person legally in charge of the premises has posted at the entry to the premises or at the entry to the principal building on the premises a sign bearing the words, “No Peddlers”, “No Trespassing” or “No Solicitors”, or words of similar import.***

15-8-7 Peddlers Operating on Public Property.

(a) Authorized Locations. Except for peddlers operating during licensed special events:

- (1) In the CBP, vending is permitted at locations approved by the Licensing Officer. Due to safety considerations and in order to insure the free movement of pedestrian traffic, approved locations are limited to four (4) within the public way. In addition to those locations, the Licensing Officer is authorized to license mobile food vendors within the CBP to sell at a parking space controlled by a meter pursuant to Section 15-8-8.***
- (2) Peddlers seeking to operate in the Central Business District shall receive written approval from the property owner fronting the proposed location, as well as the property owner of the immediately adjoining businesses. Failure to maintain approval shall result in the suspension or revocation of the license.***
- (3) Peddlers seeking to operate on public property outside the Central Business District shall receive written authorization from the applicable municipal department or official responsible for managing and overseeing the property.***
- (4) Sidewalk peddlers shall not be authorized to vend or operate:***
 - (a) At any location where the unobstructed sidewalk area after deducting the area occupied by the stand is less than five (5) feet in width.***
 - (b) Within ten (10) feet of an entranceway to any building.***
 - (c) Within thirty (30) feet of any driveway entrance to a police or fire station or within ten (10) feet of any other driveway.***
 - (d) Within thirty (30) feet of the crosswalk at any intersection.***
 - (e) Within thirty (30) feet of any bus stop sign.***
 - (f) Without the written permission of the abutting landowner and tenant.***
 - (g) In a manner which allows the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner’s written permission.***

(b) Prohibited Conduct on Public Property. A peddler shall not:

- (1) *Vend between 9:00 p.m. and 8:00 a.m. of the following day, unless authorized by the Licensing Officer.*
- (2) *Leave any stand or motor vehicle unattended.*
- (3) *Store, park, or leave any stand overnight on any street or sidewalk, park any motor vehicle other than in a lawful parking place, in conformance with City and state parking regulations.*
- (4) *Sell food or beverages for immediate consumption unless a private litter receptacle is available for its patrons' use.*
- (5) *Leave any location without first picking up, removing and properly disposing all trash or refuse remaining from sales, and in no instance shall a public litter receptacle be used for this purpose.*
- (6) *Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand or motor vehicle, unless authorized by the Licensing Officer.*
- (7) *Set up, maintain or permit the use of any table, crate, carton, rack, sign, or any other device to increase the selling or display capacity of the stand or motor vehicle, where such items have not been described in the application.*
- (8) *Solicit or conduct business with persons in motor vehicles.*
- (9) *Sell anything other than that which the peddler is licensed to vend and/or sell, display, or give away any live animal, bird, fish, or reptile.*
- (10) *Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio sound amplifier or similar device to attract the attention of the public.*
- (11) *Vend without the insurance coverage specified in Section 15-8-3.*
- (12) *Conduct the business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.*
- (13) *Stop, stand, or park its vehicle upon any street, or permit it to remain there except on the roadway at the curb for the purpose of vending therefrom.*
- (14) *Stop, stand, or park its vehicle upon any street for the purpose of selling, or sell on any street under any circumstances during the hours when parking, stopping or standing has been prohibited or is prohibited by statute by signs or curb markings or ordinance, unless authorized by the Licensing Officer.*

(15) Remain in any one location for longer than thirty (30) minutes during any two-hour period unless specifically licensed to do so.

(16) Vend along any street where parking is controlled by parking meters unless specifically licensed to do so.

15-8-8 Food Trucks and Other Mobile Peddlers.

(a) Safety Requirements. All food trucks and other mobile peddlers shall comply with the following requirements:

(1) All equipment, merchandise and utensils installed or stored in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn. To the extent applicable, a safety knife holder shall be provided to avoid loose storage of knives.

(2) Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall be installed so as to be accessible only from outside the vehicle.

(b) Identification. All food trucks and other mobile peddlers operating in the City of Concord are required to have lettering on both sides and rear of their vehicle(s), identifying the name of the business. The letters shall be of a material and affixed in a manner approved by the Licensing Officer.

(c) Mobile Food Trucks in Public Parking Spaces. The Licensing Officer may, at his or her discretion, issue a license for the use of a public parking space, including a metered parking space and a non-metered, time zone parking space. Any food truck issued a permit shall comply with the rules and regulations promulgated under Section 15-10-4(a)(1), which may include restrictions on locations and time(s) of day the parking spaces are available for food trucks. Subject to review and approval by the City Manager or his or her designee, the Code Administrator is authorized to establish fees for food trucks to cover the cost of the peddler license, food service establishment license and the use of parking space. All other procedures under Article 15-10 relative to the General License Ordinance shall apply.

(d) Private Property. Unless authorized by the Licensing Officer as part of a public celebration or other special event, food trucks selling or otherwise offering food and beverages to the general public on private property shall be required to comply with the following requirements if operating for more than thirty (30) minutes at a location:

(1) Food trucks shall provide notice to the Licensing Officer of the location, date and time it will be operating on private property.

- (2) *Food trucks shall only be permitted in nonresidential districts.*
- (3) *Food trucks must be located at least fifty (50) feet from a residential zoning district.*
- (4) *Food trucks seeking to vend on private property must receive written permission from the property owner.*
- (5) *Food trucks shall not store, park, or leave any stand overnight at the permitted location.*
- (6) *Food trucks are only permitted to operate between the hours of 8 a.m. and 9 p.m., unless authorized by the Licensing Officer.*
- (7) *Food trucks shall comply with all rules and regulations required by the Licensing Officer to address safety, traffic and access considerations.*
- (8) *When food truck operations are conducted on private property for more than twelve (12) days per calendar year at the property, or more than five (5) days consecutively, the use of the property shall comply with all zoning and/or site plan requirements. If food trucks are not specifically addressed in the zoning and/or site plan requirements, the request for food trucks shall only be permitted if approved by the Code Administrator and City Planner based on a review of use (including impacts to the neighborhood), safety, traffic, landscaping, buffer and access considerations for the property. The City Planner is authorized to require site plan review before the Planning Board for proposals with impacts that are anticipated to be significant with regard to traffic, abutters, or the neighborhood.*
- (9) *Food trucks shall be required to obtain a food service establishment license, but shall not be required to obtain a peddler license when vending on private property.*

15-8-9 Advertising.

A peddler shall not permit advertising on any stand or motor vehicle, except to identify the name of the product or the name of the peddler and the posting of prices.

15-8-10 Temporary Suspension for Street Closings.

An official temporary encumbrance or closure of a street or sidewalk by the City for purposes of maintenance or reconstruction shall cause the suspension of all licenses to operate thereon.

15-8-11 Public Celebrations and Special Events.

The Licensing Officer may, under conditions deemed appropriate, grant a temporary peddler's license to operate during public celebrations and other special events. Subject to review by the City Manager or his or her designee, the Code Administrator is authorized to

establish fees for food trucks and other food and beverage peddlers to cover the cost of both the temporary peddler's license and the temporary food service establishment license.

SECTION II: This ordinance shall take effect upon its passage.

Explanation: Matter inserted into the current ordinance appears in *bold and italics*.