



TOWN OF GILFORD, NEW HAMPSHIRE

AN ORDINANCE REGULATING OUTDOOR VENDORS AND TRANSIENT SALES (CHAPTER 27)

KNOW ALL PERSONS BY THESE PRESENTS, the Gilford Board of Selectmen hereby ordains to adopt these procedures providing for the licensure and regulation of itinerant vendors, hawkers, peddlers, traders and merchants or other persons who sell, offer to sell, or take orders for merchandise from temporary or transient sales locations within the corporate limits of the Town of Gilford.

27.1 AUTHORITY

This Ordinance is adopted pursuant to the authority granted under RSA 31:102-a.

27.2 PURPOSE

The purpose of this Ordinance is to provide for the health and safety of Gilford residents and visitors by means of requiring Permits for all temporary outdoor sales to ensure, in so much as possible that every person engaged in such sales is (1) authorized to do business in the State of New Hampshire; (2) held to reasonable standards in the preparation and delivery of food and other consumables; (3) held accountable in the event of fraudulent or illegal activities; and (4) compliant with all other applicable rules and regulations governing sales transactions, the use of public property and conditions for site plan approval in the Town of Gilford.

27.3 REPEAL OF PREVIOUS REGULATIONS

This Ordinance shall supersede and replace the Ordinance Relative to Salesman and Solicitors as adopted on March 15, 1967.

27.4 PERMIT PROCEDURES

27.4.1 Pre-Application Requirements

Permit applications are to be submitted to the Gilford Director of Planning and Land Use who shall be the Issuing Authority. Any person aggrieved by a decision of the Director of Planning and Land Use may submit a written appeal to the Board of Selectmen whose decision shall be final.

- A. All applicants for a Town of Gilford Permit under this Ordinance must first obtain a Hawkers and Peddlers License from the New Hampshire Secretary of State's Office. Copies must be provided with each Town of Gilford application.
- B. All applicants for food or other sales that are subject to regulation under NH law (He-P 900 - massages, 1100 – body art, 1300 – electrology or 2300 - food), must first obtain a Permit from the NH Department of Public Health. Copies must be provided with each Town of Gilford application.
- C. All vendor applicants who will be utilizing a motor vehicle must provide the Town with a copy of the vehicle registration and proof of insurance.
- D. An incomplete application as determined by the Gilford Director of Planning and Land Use shall be returned to the applicant with an indication of corrective action that is necessary to process the Permit.

27.4.2 Permit Locations

Permits shall only be issued for sales activity regulated under this Ordinance that takes place under the following scenarios:

- A. At the Gunstock Recreation Area as part of an official event that is sanctioned by the Gunstock Area Commission;
- B. Along the public streets and parking areas within the Town of Gilford from a vehicle (such as an ice cream vendor) equipped with adequate warning lights, provided that such vehicle does not obstruct the public way or pose an undue safety hazard, as determined by a Gilford Police Officer;
- C. From a private vehicle for door-to-door sales, provided such vehicle shall not obstruct the public way and that no sales tactics shall be utilized except upon the invitation of a household resident over the age of eighteen (18);
- D. On the grounds of private property that has obtained specific site plan approval from the Gilford Planning Board for outdoor vending.

27.4.3 Permit Conditions

- A. Permits are limited to a single vehicle, booth, tent, trailer or defined sales area, as determined solely by the Town. Each additional vehicle, booth, tent, trailer or defined sales area shall require a separate Permit.
- B. Every Permittee is required to comply with all applicable local, state and federal laws and regulations that may pertain to their specific sales operations and any general criteria (such as the Americans with Disabilities Act, employment laws, sign regulations, noise restrictions, etc.) that may also apply.
- C. All Hawker & Vendors Licenses issued by the State of New Hampshire and Vendor Permits issued by the Town of Gilford must be publicly displayed at all times.

- D. Due to the transitory nature of outdoor sales and the inability of the Town of Gilford to closely monitor such activities, Permits will not be issued under this Ordinance to any person that has been convicted of a felony involving moral turpitude, acts of violence or crimes related to sales activity or an applicant who employs such a person. In addition, the Town reserves the right to deny a Permit to any person upon the refusal of the Chief of Police to recommend an applicant based upon motor vehicle and/or criminal background checks.
- E. Permittees are responsible for the legal disposal of all trash generated from their sales activity.
- F. Permittees in a stationary setting shall not emit lights or sounds beyond the confines of their vending area.
- G. Permittees in a mobile setting shall comply with the directions of any enforcement official as it pertains to lights and broadcasting of sounds based on safety factors or public complaints.
- H. The Town reserves the right to limit Permits issued under this Ordinance to daylight hours only.
- I. Permits issued under this Ordinance shall not be transferred, sublet or assigned to any person other than the Permittee.
- J. The Town reserves the right to impose any special conditions on the issuance of a Permit as may be deemed necessary in the interests of public safety.
- K. All applicants who will be utilizing cooking apparatus (other than warming devices or microwave ovens) must obtain a Fire Permit from the Gilford Fire-Rescue Department to ensure that such devices comply with applicable fire prevention and life safety codes. Copies of these Fire Permits must be displayed with along with the Town of Gilford Vendor Permit. (There is no additional fee for this Permit – see Appendix A as attached for Fire Permit Requirements.)
- L. The Town shall notify applicants upon approval of their Permit. Thereafter, Permits may either be picked up at the Department of Planning & Land Use Office (upon payment of fees) during regular business hours, (M-F, 8am-5pm) or a Permit will be mailed to the applicant if the Town is provided with a self-addressed, stamped envelope.

27.5 EXEMPTIONS

The following activities are exempt from this Ordinance:

- A. The sale of agricultural products on private property.

- B. Vendor sales from within the confines of a permanent structure that is recognized as legally in existence by the Town of Gilford Department of Planning & Land Use or outdoor sales displays that are ancillary to an existing business and approved by the Planning Board.
- C. Political activity that consists of soliciting signatures or the free distribution of handouts.
- D. Charitable, educational or religious sales activity, (including raffles), provided that absolutely no part of any sales proceeds are used as compensation or for the benefit of any private shareholder or individual.
- E. Vendor sales that take place on Town property as part of Old Home Day events sanctioned by the Board of Selectmen or Recreation Commission shall be exempt from this Ordinance.
- F. Yard sales or the use of private property for the exclusive sale of homemade products, antiques, used goods or vintage items.
- G. Additional exemptions from any of the provisions set forth in this Ordinance may be requested upon written application to the Board of Selectmen for good cause, as determined solely by the Selectmen acting at a duly posted, public meeting.

27.6 VIOLATIONS

- A. It shall be a violation of this Ordinance to engage in any outdoor sales activity as regulated herein without a valid Permit issued by the Town of Gilford.
- B. It shall be a violation of this Ordinance to engage in any outdoor sales activity in a manner that is not consistent with the terms and conditions of the Permit or the provisions of this Ordinance.
- C. It shall be a violation of this Ordinance to engage in any outdoor sales activity on Town property without the written consent of the Board of Selectmen.
- D. Each continuing day of a violation after notice shall constitute a separate offense.

27.7 ENFORCEMENT

- A. This Ordinance shall be enforced by any duly certified Gilford Police Officer or a duly appointed Gilford Code Enforcement Official. Enforcement may consist of (1) an order to cease operations; (2) the issuance of a citation; (3) the revocation of a Permit; (4) issuance of an arrest summons; and/or (5) any combination of these actions at the discretion of the enforcement official based upon the severity and egregiousness of the violation(s).
- B. Any duly certified Gilford Firefighter may revoke a Permit for repeated or willful violations of fire safety requirements upon notice to the Permittee and a Gilford Police Officer.

27.8 FEES

- A. The fee structure for a Permit under this Ordinance shall be as follows upon submission of a completed application at least seven (7) days prior to the sales activity:

Daily: \$65 1st Permit; \$50 2nd Permit and all others

Weekly: \$400 1st Permit; \$300 2nd Permit and all others
(Applies to any 7 consecutive day period)

Monthly: \$1,500 1st Permit; \$1000 2nd Permit and all others
(Applies to any 30 consecutive day period)

Annual: \$2,500 1st Permit; \$2,000 2nd Permit and all others
(Applies to any 365 consecutive day period)

- B. The fee for an expedited Permit upon submission of a completed application that is less than seven (7) days prior to the event shall be a twenty-five percent (25%) surcharge based on the entire permit fee.

27.9 PENALTIES

- A. Any person who has committed a violation of this Ordinance shall be subject to a fine as follows:

First Offense: The amount due shall be one hundred fifty dollars (\$150.00)

Second Offense: The amount due shall be two hundred fifty dollars (\$250.00)

Third (or more) Offense: The amount due shall be five hundred dollars (\$500.00)

- B. Upon receipt of a citation, a person who submits payment to the Town of Gilford Office of the Town Clerk within five (5) days of issuance shall be eligible for a ten percent (10%) fine reduction.
- C. Failure to make payment for a fine as indicated on a citation within thirty (30) days of issuance shall result in prosecution in Laconia District Court. Any person found guilty in a court of law for violating this Ordinance shall thereafter not be eligible for a Permit issued hereunder for a period of three (3) years from the date of conviction.

27.10 SEVERANCE

In the event that any word, sentence or section of this Ordinance is found to be invalid as a result of judicial or legislative action, the remainder of this Ordinance shall remain in full force and effect.

27.11 EFFECTIVE DATE

This Ordinance shall take effect as of January 15, 2009.

IN WITNESS WHEREOF, this Ordinance regulating outdoor vendors and transient sales is adopted and approved on the ____ day of _____, 20____ by the Gilford Board of Selectmen. ATTEST:

Connie Grant, Chair:

Gus Benavides, Vice-Chair:

J. Kevin Hayes, Clerk:

UNDER SEAL OF THE TOWN, RECEIVED AND RECORDED ON THIS ____ DAY OF _____, 2009, BY:

Denise A. Morrisette, Town Clerk:

**TOWN OF GILFORD, NH
OUTDOOR VENDORS AND TRANSIENT SALES ORDINANCE
PERMIT APPLICATION**

DATE: _____

APPLICANTS NAME: _____

ADDRESS: _____

HOME TELEPHONE: (_____) _____

BUSINESS PHONE: (_____) _____

EMERGENCY PHONE: (_____) _____

E-MAIL ADDRESS: _____

TYPE OF BUSINESS: _____

REGULATED SERVICES: NO YES (IF YES, ATTACH NH HEALTH PERMIT)

FOOD SALES: NO YES (IF YES, ATTACH NH HEALTH PERMIT)

COOKING DEVICE: NO YES (IF YES, GILFORD FIRE PERMIT SHALL BE REQUIRED)

MOTOR VEHICLE: NO YES (ATTACH REGISTRATION AND INSURANCE PROOF)

TYPE/SIZE OF VEHICLE: _____

TYPE/SIZE OF EQUIP: _____

SALES LOCATION: _____

SALES AREA SIZE: _____

SALES DATES & TIMES: _____

PERMIT TYPE: DAILY WEEKLY MONTHLY ANNUAL EXPEDITED

EMPLOYEE IDENTIFICATION: (LIST THE NAMES OF ALL EMPLOYEES INCLUDING THE APPLICANT)
(ATTACH A COPY OF DRIVER'S LICENSE OR GOV'T ID FOR EACH NAME)

I, _____, hereby certify that I have read and understand the Town of Gilford Outdoor Vendor and Transient Sales Ordinance. I am aware that a Permit issued under this Ordinance applies only to the information listed herein. I promise that my employees and I will comply with the terms of the Ordinance at all times and I understand that this Permit may be revoked as provided in the Ordinance. Furthermore, I certify that my employees and I are legally qualified to work in the United States.

SIGNATURE OF APPLICANT _____

RECOMMENDATION OF POLICE CHIEF: APPROVE DENY; INITIALS: _____

PERMIT ISSUED: NO YES (ATTACH COPY) AMOUNT DUE: _____

SPECIAL CONDITIONS: _____

SIGNATURE OF PLANNING & LAND USE DIRECTOR: _____

cc: Police Department; Fire-Rescue Department, Selectmen's Office