CHAPTER 9
VENDORS

9.1 **Purpose of Chapter:** The purpose of this Chapter is to allow for and regulate vending while promoting public safety, health, order and convenience upon the highways, driveways, sidewalks, parking areas and other places that may be frequented by the public.

9.2 **Statutory Authority:** This Chapter has been promulgated under the authority granted to the Legislative Body of the Town of Manchester by 24 V.S.A. § 2291(9).

9.3 **Definitions:** The following definitions shall apply to this Chapter:

9.3.1 Merchandise: Goods, commodities, food products or any other item that can be sold on a retail or wholesale basis to the general public.

9.3.2 Vendor: Any person, organization or entity who sells merchandise at a non-permanent location, or who is not located within a legally-existing structure in the Town of Manchester. This Chapter shall not apply to vendors who are exclusively selling fruits, vegetables or farm produce.

9.4 **General Vendor Requirements and Conditions:** The following requirements and conditions shall apply to all Class I, II, III and IV licenses:

9.4.1 It shall be unlawful for any vendor to sell merchandise without a license.

9.4.2 Vendors shall adhere to all provisions of this Chapter. The Selectboard may impose additional restrictions and conditions upon licenses.

9.4.2.1 Failure to comply with the requirements of this Chapter may result in fines, as provided for herein, or revocation of current licenses or denial of future licenses by the Selectboard.

9.4.2.2 The Town Manager may suspend, for not more than 30 days, a license for failure to comply with the requirements or conditions of this Chapter. Vendors may appeal this decision to the Selectboard.

9.4.2.3 At its sole discretion the Selectboard may require a cash bond, not to exceed $1,000.00, to ensure compliance with this Chapter. The bond shall be deposited into an interest bearing account. The bond, plus interest and minus any fines, shall be returned to the vendor when the license has expired, is surrendered, is not renewed or has been revoked by the Selectboard provided there has been full compliance with the terms of this Chapter.

9.4.3 Vendors shall not conduct business within the public right-of-way unless specifically authorized by the Selectboard.

9.4.4 Vendors shall obtain written permission from the landowner of any property that vending is to occur. Written permission shall be submitted with the license application each year. The Town Planning Director shall provide comments to the Selectboard regarding any conflict with land use permits and the Selectboard may consider such comments during the application process.

9.4.5 All vending equipment, trailers and related items shall be removed from the vending location and Town's commercial districts (1, 2 and 3) each night or at the end of the business day. Vending equipment may be stored in the commercial districts in a structure or building so that the equipment is not visible to the public.

9.4.6 Signage, including menus, for vendors may not exceed a total of eight (8) square feet per vendor. Signage shall be defined as any wording or image related to the vending operation that is either free-standing or affixed to the outside of a vehicle, trailer or cart. Neon or lighted signs are not permitted. All signage shall be on the parcel where vending is to occur but not on sidewalks, walkways or the Town right of way. The location, size and design of any signage outside of a vehicle, trailer or cart and not affixed to a vehicle, trailer or cart must be approved by the Selectboard.

9.4.7 Vending employee vehicles shall be parked in areas that are not generally used by customers or the general public.

9.4.8 Vendors agree to hold the Town harmless from any claims that may arise as a result of vending operations, including traffic accidents. Vendors shall submit with their application a current and valid certificate of insurance, naming the Town of Manchester as an additionally insured, for $500,000 per incident and $1,000,000 overall coverage, shall maintain such coverage during the term of the license, and shall promptly furnish proof of such coverage at the request of the Town at any time during the term of the license.

9.4.9 Vendors may only operate between sunrise and 9:00 P.M. The Selectboard may, from time to time, modify this condition for special purposes or events.

9.4.10 Vendors may not dump or otherwise dispose of greywater or any wastewater on-site. Vendors may not dispose of greywater in Town- or privately-owned catch basins or sewer basins.

9.4.11 Vendors agree that it is the sole responsibility of the vendor to comply with all State licensing requirements including, but not limited to, health licenses, business licenses and tax licenses.

9.4.12 Vendors agree to timely collect and remit all applicable taxes and fees, including local option sales tax and meals tax.

9.5.1.1 Class I License Fees:

May 1 through October 31: $400.00
January 1 through December 31: $600.00

9.5.1.2 Class I License Conditions and Restrictions:

1. **Locations:** Class I vendors shall conduct business only in the Town's commercial 1 or 3 zoning districts.
2. **Number of Employees:** Class I vendors shall not use more than two (2) employees per location at any given time.
3. **Color of Vending Equipment:** Effective May 1, 2012 vending vehicles or trailers shall be stainless steel or neutral color approved by the Design Review Board.
4. **Equipment:** Class I vendors may use one single pole umbrella not to exceed 10 feet in diameter. Vendors may not use tents, canopies, awnings, or other multiple pole apparatus. Vendors may not use chairs or tables that are to be used by the public.
5. **Footprint:** Under no circumstances shall a Class I vendor footprint exceed 100 square feet.
6. **Merchandise:** Class I vendors may only sell food and/or beverages. All other merchandise is prohibited.
7. **Posting of License:** Vendors shall post a copy of the vending license in a conspicuous place for public examination.
8. **Generators:** Generators shall not be permitted.
9. **Signage:** Notwithstanding section 9.4.6, all existing signage as of July 1, 2009 may remain in place until May 1, 2012.

9.5.2 Class II License: A Class II License is defined as a sole proprietor, partnership, corporation or other entity that operates a vending operation with a total footprint, including a vehicle used to store supplies, that is within fifty feet of the vending operation, of between one hundred and one and two hundred square feet. The Selectboard shall not issue more than two Class II vending licenses. Each license allows a vendor to operate a single vending operation. Vendors shall apply on a form provided by the Town.

9.5.2.1 Class II License Fees:

January 1 through December 31: $1,000.00

9.5.2.2 Class II License Conditions and Restrictions:

1. **Locations:** Class II vendors shall conduct business only in the Town's commercial 1 or 3 zoning districts.
2. **Number of Employees:** Class II vendors shall not use more than three (3) employees per location at any given time.

9.4.13 Vendors shall not use lights.

9.4.14 Vendors shall not operate within ten (10) feet of any and all adjacent property boundary lines without the prior written consent of the adjacent property owner and the approval of the Selectboard. Written permission must be submitted with all applications.

9.4.15 Vendors shall maintain the site of vending in a clean and neat state and are responsible for the appropriate disposal of all trash or garbage generated by their business or by patrons thereof.

9.4.16 Licenses issued under this Ordinance shall not be transferable or assignable to any other entity. Licenses shall not be granted for more than twelve months; nothing in this Chapter shall be construed as creating a contract or obligation on the part of the Town of Manchester to grant future licenses.

9.4.17 The enforcing officer shall be any member of the Manchester Police Department or the Town Manager. The Town may make periodic site visits to ensure compliance with the provisions of this Chapter.

9.4.18 Vendors shall submit a copy of a State of Vermont "Meals and Rooms Tax License" or "Sales Tax License" with any license application, or proof that the entity is exempt from collecting such taxes.

9.4.19 Applicants for a vending license shall apply on a form provided by the Town Manager. The Town Manager shall present all complete applications to the Selectboard for its approval or disapproval. To ensure timely approval, all applications should be submitted at least one month in advance. The application shall include, but is not limited to a description and photograph of the proposed equipment to be used, the name, address, telephone number and electronic mail address of the applicant and a detailed map of the area that will be used to vend and the location of any freestanding signage. The Town Manager, Police Chief, Planning Director, Development Review Board or Planning Commission may make recommendations to the Selectboard. Vendors shall seek and obtain the Selectboard's approval each time the vendor relocates to another parcel or proposed to use new equipment, trailer or cart.

9.5 **Vending Licenses:** There shall be four separate classes of licenses. All licenses shall be approved or disapproved by the Selectboard, through a vote of the majority of Selectboard members present and voting.

9.5.1 **Class I License:** A Class I License is defined as a sole proprietor, partnership, corporation or other entity that operates a vending operation with a total footprint, including a vehicle used to store supplies, that is within fifty feet of the vending operation, of between one and one hundred square feet. Each license allows a vendor to operate a single vending operation. Vendors shall apply on a form provided by the Town.

3. **Color of Vending Equipment:** Effective May 1, 2012 vending vehicles or trailers shall be stainless steel or neutral color approved by the Design Review Board.
4. **Equipment:** Class II vendors may use two single pole umbrellas not to exceed ten feet each in diameter. Vendors may not use tents, canopies, awnings, or other multiple pole apparatus. Vendors may not use chairs or tables that are to be used by the public.
5. **Footprint:** Under no circumstances shall a Class II vendor footprint exceed 200 square feet.
6. **Merchandise:** Class II vendors may only sell food and/or beverages. All other merchandise is prohibited.
7. **Posting of License:** Vendors shall post a copy of the vending license in a conspicuous place for public examination.
8. **Generators:** Generators shall not be permitted.
9. **Signage:** Notwithstanding section 9.4.6, all existing signage as of July 1, 2009 may remain in place until May 1, 2012.

9.5.3 Class III (Farmers' Markets): The Selectboard may, at its sole discretion, issue a license to an incorporated or organized farmers' market association. Vendors may sell only foods grown by the vendor or merchandise produced by the vendors; vendors may not resell merchandise. All licensed farmers' markets shall provide the Town with a list of all vendors that shall include the name, address, telephone number and type of merchandise to be vended. Each vendor may not exceed a footprint of 200 square feet.

9.5.3.1 Class III (Farmers' Markets) Fees:

January 1 through December 31: $400.00

9.5.4 Class IV (Weekend Events): The Selectboard may, at its sole discretion, grant a Class IV license to a not-for-profit or for-profit entity for an event not to exceed four consecutive days; provided, however, that the Selectboard may only grant two licenses per calendar year to an entity.

9.5.4.1 Class IV (Weekend Events) Fees:

$20.00 per vendor per event, but not less than $400.00 and not greater than $1,000.00.

9.6 Exceptions and Exemptions:

9.6.1 The Selectboard may waive the provisions of this Chapter, including waiving or reducing fees, for vendors sponsored by non-profit 501(c)(3) organizations if the majority of net vending revenues are devoted to support the Manchester-based charitable or philanthropic cause; provided that such event does not occur more than once a year for not longer than five days. Organization shall provide proof of its non-profit 501(c)(3) status.

9.6.2 The Selectboard may waive the provisions of this Chapter for Town-sponsored events.

9.6.3 This Chapter shall not be construed to govern garage sales, tag sales, lawn sales or lemonade stands and other similar temporary, casual occurrences that are operated by town residents with annual revenues less than $250.00.

9.7 **Penalties:** The fine for violating any section of this Chapter shall be $250.00 per day for the first violation; $500.00 per day for the second violation; and $1,000.00 per day for subsequent violations. Fines may be appealed to the Selectboard in writing. Failure to pay fines within ten days shall result in the revocation of the vendor's license. Whenever possible, fines shall be issued to the licensed Class I, II, III or IV vendor, not the employee.

9.8 **Civil Designation:** A violation of this Chapter shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. § 1974a and 1977 et seq.

9.9 **Severability:** If any provision within this Ordinance is for any reason held to be invalid, such action shall not affect the validity of the remaining provisions of this Ordinance.

9.10 **Effective Date:** This Chapter shall be effective January 1, 2010. However, the Selectboard may grant interim licenses to vendors based on this Chapter between November 1, 2009 and December 31, 2009.

Pursuant to State Law, approved by the Selectboard:

Chair of the Selectboard

September 29, 2009

Date of Approval

November 28, 2009

Effective Day
(60 days after approval by the Selectboard)