

CHAPTER IX

VENDING, PEDDLERS AND DOOR-TO-DOOR SALES

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9-1 Authority to Enact Chapter

This Chapter has been established under the authority granted to the Legislative Body of the Town of Manchester by 24 V.S.A. § 2291(9).

9-2 Purpose of Chapter

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

9-3 Definitions

The following definitions shall apply to this Chapter:

Door-to-door sale of goods and services is defined as the act of soliciting, selling or promoting goods, merchandise or services at private residences when the owner or the occupant of the private residence has not expressly requested such goods or services.

Merchandise shall mean goods, commodities, food products or any other item that can be sold on a retail or wholesale basis to the general public.

Vendor shall mean any person, organization or entity that sells merchandise at a non-permanent location, or that 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, IV and V licenses:

- (1) It shall be unlawful for any vendor to sell merchandise without a license. A violation of this subsection shall be considered a First-Degree civil violation.
- (2) Vendors shall adhere to all provisions of this Chapter. The Selectboard may impose additional restrictions and conditions upon licenses.
- (3) 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.

(4) 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 in writing to the Selectboard.

(5) At its sole discretion the Selectboard may require a cash bond, not to exceed \$1,000, to ensure compliance with this Chapter. 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minus any fines, shall be returned to the vendor when the license has expired, is surrendered, is not renewed or has been revoked by the Selectboard provided there has been full compliance with the terms of this Chapter.

(6) Vendors shall not conduct business within the public right-of-way unless specifically authorized by the Selectboard, or during events sponsored by the Town of Manchester and approved by the Town Manager.

(7) Vendors shall obtain written permission from the landowner of any property on which vending is to occur. Written permission shall be submitted with the license application each year. The Development Review Board shall review and may provide comments to the Selectboard regarding any conflict with land use permits and the Selectboard may consider such comments during the licensing process at a public meeting.

(8) All vending equipment, trailers and related items shall be removed from the vending location and Town's Commercial 1, 2 and 3 districts each night or at the end of each business day. Vending equipment may be stored overnight with prior approval of the Selectboard.

(9) 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, lighted signs and flags, other than the American flag and the flag of states and nations, 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 and be in compliance with the Town's Land Use Ordinance.

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

(11) 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 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.

(12) Vendors may operate only between the hours of 7:00 AM and 9:00 P.M. The Town Manager may, from time to time, modify this condition for special purposes or events.

(13) Vendors may not dump or otherwise dispose of grey-water or any wastewater on site. Vendors may not dispose of grey-water in Town- ~~or~~ privately-owned catch basins or sewer basins.

(14) Vendors agree that it shall be 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.

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

(16) Vendors shall not use exterior lights.

(17) 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.

(18) Vendors shall maintain the site of vending in a clean and neat state and shall be responsible for the appropriate disposal of all rubbish generated by their business or by patrons thereof.

(19) Licenses issued under this Chapter shall be restricted to a specific location or physical address, as indicated in the license, and shall not be transferred or assigned to any other entity. Licenses issued under this Chapter may be amended with approval of the Selectboard, to move locations, with no additional fee.

(20) 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 or renew future licenses.

(21) Vendors shall submit a copy of a State of Vermont "Meals and Rooms Tax License" or "Sales Tax License" with any license application.

(22) It shall be unlawful to sell goods and services door-to-door, as defined in section 3 of this Chapter, in the Town of Manchester; provided, that not-for-profit organizations recognized by the Internal Revenue Service or the State of Vermont, religious organizations recognized by the Internal Revenue Service, not-for-profit educational institutions and political causes, parties or candidates or speech that is protected by the free speech provisions of the Constitution are exempt from the requirements of this Chapter. A violation of this subsection shall be considered a Second-Degree civil violation.

(23) It shall be unlawful for any person or organization to solicit funds or sell goods or services on public rights of way, roadways, sidewalks, and parking lots in the Town of Manchester unless approved by the Town Manager, in writing and at his or her sole discretion. A violation of this subsection shall be considered a Second-Degree civil violation.

(24) Applicants for a vending license shall make application 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 before the requested license would become effective. The application shall include, a description and photograph of the proposed equipment to be used, a detailed map of the area that will be used to vend, a layout plan or sketch showing location of equipment including square footage and any lost parking and the location of any freestanding signage. The Town Manager, Police Chief, Development Review Board or Zoning Administrator may make recommendations to the Selectboard. Each time the vendor relocates to another parcel or proposes to use new equipment, trailer or cart, the vendors shall seek and obtain the Selectboard's approval after Design Advisory Board review and comments.

9-5 Vending Licenses - general

(1) There shall be five separate classes of vending licenses, as established in sections 9-6, 9-7, 9-8, 9-9 and 9-10 of this Chapter.

(2) Licenses authorized in 9-6, 9-7, 9-8 and 9-9 of this Chapter shall be approved or disapproved by the Selectboard. Licenses authorized in Chapter 9-10 of this Chapter shall be approved or disapproved by the Town Manager.

(3) The Selectboard may not issue more than a total of six Class I and Class II vendor licenses at any given time; provided, that applications submitted by year-round vendors licensed by the Town in the

previous year with full payment before December 1 and in good standing shall be given preference by the Selectboard.

9-6 Class I Vending Licenses (up to 150 square feet)

(1) A Class I License is defined as a sole proprietor, partnership, corporation, other for-profit entity or not-for-profit 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 fifty square feet. Each license allows a vendor to operate a single vending operation. Vendors shall make an application on a form provided by the Town Manager.

(2) The fees for Class I licenses shall be established in Addendum A; provided, a different fee shall be established in Addendum A for vendors that operate between May 1 and October 31.

(3) Class I vendors shall vend only on commercially zoned parcels on Main Street between the intersection of Equinox Terrace Road and the intersection of Memorial Avenue; and on Depot Street, between the intersection of Main Street and the intersection of East Branch Farm Road; and at the Dana L. Thompson Memorial Park upon the written approval of the Town Manager.

(4) Class I vendors shall not use more than two (2) employees per location at any given time.

(5) Applications with new vending vehicles and/or trailers shall be reviewed by the Design Advisory Board, who may provide comments to the Selectboard. The Selectboard shall approve or disapprove vending vehicles and trailers.

(6) 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.

(7) Under no circumstances shall a Class I vendor footprint exceed 150 square feet.

(8) Class I vendors may sell only food and/or beverages. All other merchandise is prohibited.

(9) Vendors shall post a copy of the vending license in a conspicuous place for public examination at all times while in operation.

(10) Gasoline and diesel-powered generators shall not be permitted.

9-7 Class II Vending Licenses (up to 300 square feet)

(1) A Class II License is defined as a sole proprietor, partnership, corporation, other for-profit entity or not-for-profit 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 fifty and three hundred square feet. Each license allows a vendor to operate a single vending operation. Vendors shall apply on a form provided by the Town Manager.

(2) The fees for Class II licenses shall be established in Addendum A.

(3) All Class II licenses shall run from January 1 to December 31 of any year.

(4) Class II vendors shall vend only on commercially zoned parcels on Main Street between the intersection of Equinox Terrace Road and the intersection of Memorial Avenue; and on Depot Street, between the intersection of Main Street and the intersection of East Branch Farm Road; and at the Dana L. Thompson Memorial Park upon the written approval of the Town Manager.

(5) Class II vendors shall not use more than three (3) employees per location at any given time.

(6) Vending vehicles and trailers shall be reviewed by the Development Review Board, who may provide comments to the Selectboard. Applications with new vehicles and trailers shall be reviewed by the Design Advisory Board, who may provide comments to the Selectboard. The Selectboard shall approve or disapprove vending vehicles and trailers.

(7) Class II vendors may use up to 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.

(8) Under no circumstances shall a Class II vendor footprint exceed 300 square feet.

(9) Class II vendors may sell only food and/or beverages. All other merchandise is prohibited.

(10) Vendors shall post a copy of the vending license in a conspicuous place for public examination at all times while in operation.

(11) Gasoline and diesel-powered generators shall not be permitted.

9-8 Class III Vending Licenses - Farmers' Markets

- (1) The Selectboard may, at its sole discretion, issue a license to an incorporated or organized farmers' market association.
- (2) The fees for Class III licenses shall be established in Addendum A.
- (3) A vendor may sell only foods grown by the vendor or merchandise produced by the vendor; vendors may not resell merchandise.
- (4) Each vendor may not exceed a footprint of 300 square feet.
- (5) Licenses granted under this section shall run January 1 to December 31 of any given year

9-9 Class IV Vending Licenses - Weekend Events

- (1) The Selectboard may, at its sole discretion, grant a Class IV license to a sole proprietor, partnership, corporation, other for-profit entity or not-for-profit entity for an event not to exceed four consecutive days; provided, however, that the Selectboard may grant only two licenses per calendar year to an entity.
- (2) In addition to food and beverages, notwithstanding any other clause to the contrary, Class IV vendors may vend merchandise that includes arts and crafts, antiques, collectibles, and other such merchandise.

9-10 Class V Vending Licenses -Temporary Vendors

- (I) The Town Manager may grant a temporary license to a vendor, defined as a sole proprietor, partnership, corporation, other for-profit entity or not-for-profit 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 three hundred square feet; provided, that a vendor approved under this section may vend for not more than three consecutive days or more than seven days in any given calendar year. Licenses shall be issued for specific days. Each license allows a vendor to operate a single vending operation. Vendors shall make an application on a form provided by the Town Manager.

- (2) The fees for Class V licenses shall be established in Addendum A of this Code.
- (3) Class V vendors shall vend only on commercially zoned parcels on Main Street between the intersection of Equinox Terrace Road and the intersection of Memorial Avenue; and on Depot Street, between the intersection of Main Street and the intersection of East Branch Farm Road; and at the Dana L. Thompson Memorial Park upon the approval of the Town Manager.
- (4) Class V vendors may sell only food and/or beverages. All other merchandise is prohibited. Class V 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. Class V vendors may not use chairs or tables that are to be used by the public. Gasoline and diesel-powered generators shall not be permitted.
- (5) Notwithstanding subsection 4 of this section, vendors at the Dana L. Thompson Memorial Park may vend food and beverages; and clothing, sports equipment, and merchandise whenever it is related to a particular event or tournament. Class V vendors at the Dana L. Thompson Memorial Park may use tents and awnings, provided that the footprint of the vending operation shall not exceed a total of 200 square feet.
- (6) Vendors shall post a copy of the vending license in a conspicuous place for public examination at all times while in operation.

9-11 Exceptions and Exemptions

- (1) The provisions of this Chapter shall not apply to events administered by the Town of Manchester or the Manchester School District.
- (2) 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 on parcels zoned residential and with annual revenues less than \$500.

9-12 Penalties

- (1) Except as otherwise provided for in this Chapter, any violation of this Chapter shall be considered a Second-Degree civil violation.

- (2) Failure to pay fines, unless otherwise appealed, within fourteen days shall result in the revocation of the vendor's license.
- (3) Whenever possible, fines shall be issued to the licensed vendor and not an employee of the vendor.

9-13 Enforcement

Sworn police officers of the Manchester Police Department and any Municipal Compliance Officer are hereby designated as the enforcement authority for this Chapter. The Town may make periodic site visits to licensed vendors to ensure compliance with the provisions of this Chapter.

Chair of the Selectboard

Date of Enactment by Selectboard

