

Town of Fairlee
Public Notice
Itinerant Vendors, Peddlers, and
Food Sales Ordinance Amendment

Section I. Authority

The amendment to the ordinance is adopted on June 5, 2023 by the Selectboard of the Town of Fairlee (hereinafter "Town") under the authority of 24 V.S.A. §§ 2291 (9) and (15) and 24 V.S.A. Chapter 59.

Section II. Purpose

The purpose of this ordinance is to protect the public health, safety, and welfare of the Town by regulating the entrepreneurial activities of itinerant vendors.

Section III. Definitions

For the purposes of this Ordinance, the following words and/or phrases shall be defined as follows:

- A. "Cater and catering" shall mean to provide food, meal and or beverage services as a part of an event, either public or private, where money is, or is not paid at the point of service.
- B. "Enforcement Officer" means a Town Administrator, Town Constable, Police Officer, Local Health Officer, or any other person designated as an Enforcement Officer by the Selectboard.
- C. "Itinerant vendor" shall mean peddlers, door-to-door salesmen, and any person(s), principle(s), agent(s), corporation(s), or other business entities who engage in a temporary or transient business in the Town either in one locality or traveling from place to place selling or offering to sell goods, wares, merchandise, services, ready-to-consume food and non-alcoholic or alcoholic beverage products, and the sale of items from an automobile, truck, wagon, stand, trailer, vehicle, or other portable structure.
- D. A non-profit entity may include any 501(c)(3) non-profit group, the School District, Town of Fairlee and religious organizations.
- E. Vendors who are setting up for a special event and the event does not exceed 3 days will be charged a festival fee.

Application information shall include the following:

- (1) Proposed site (or sites) of the vending operation;
- (2) General nature of the products, goods, wares, merchandise, or services to be sold;
- (3) Name of the operator of the enterprise; if other than an individual, then the name of the business and the individual principals thereof;
- (4) If the operator is not the owner of the premises where the sales or activity is to take place, the name of the owner shall be given and the owner's consent to the use of the location must be attached to the application;
- (5) The proposed timeframe (days, weeks, months, year).
- (6) The specific days and hours of operation;
- (7) A copy of any applicable federal, state, or local permit(s);
- (8) Specific arrangements proposed to be made for on-site and off-street parking, if any, or a written request for waiving or amending parking restrictions; and
- (9) Summary of advertising and sign material

C. Upon receipt of the application, the Town Administrator shall note the date of the filing.

Section VI. Issuance of Permit

- A. The Town Administrator shall act on the permit application within three (3) business days.
- B. The Town Administrator may deny any application that does not comply with the requirements of this ordinance or may refer the application to the Selectboard for consideration.
- C. Applications shall be approved by the Town Administrator if the application is complete and:
 - (1) Permission of the property owner(s) where the sales are to take place has been obtained.
 - (2) The vehicle, trailer, or both that the activity is conducted from are properly tagged and inspected.
 - (3) Traffic and circulation arrangements into, out of and within the site are determined to meet basic safety requirements.
- D. If the permit is approved with conditions, these conditions may include, but are not limited to, special provisions for:
 - (1) Sanitation facilities.
 - (2) Off-street parking and traffic control.
 - (3) Removal of trash and litter.
 - (4) Site owner's approval for use of site's utilities.

- E. The Town Administrator may require that all applicable Local, State and Federal permits (and is by law) be followed in lieu of, or in addition to, conditions specified in the permit.
- F. The decision of the Town Administrator to deny, issue, or issue a permit with conditions may be appealable to the Selectboard.
- G. If an applicant appeals a denial, the appeal must be submitted to the Town Administrator within three (3) business days of the denial date.

Section VII. Selectboard Action on the Application

- A. The Selectboard, but shall not be required to hold a public hearing upon the application if the applicant appeals a denial or special condition imposed by the Town Administrator. If a public hearing is held, it shall be on not less than seven (7) business days prior notice. Notice shall be provided to the applicant within three (3) business days. Public notice shall be posted in three (3) public places in Town, and on the Town Web Site.
The permit shall be granted or denied within fifteen (15) business days of the close of the hearing.
- B. Selectboard may confer with the Health Officer and local law enforcement regarding special provisions for sanitation and security.
- C. The Selectboard shall act upon each application and render a decision in writing to the applicant and any other person who has appealed. The Selectboard shall also inform the Health Officer, Town Clerk, and local law enforcement if the application is granted.

Section VIII. Exemptions from This Ordinance

After completing an application the following activities are not subject to the following:

- A. Selling fruits, vegetables or other produce or farm products.
- B. Receiving prearranged appointments or deliveries.
- C. Catering services provided as part of a public or private event.
- D. Food and retail sales may be permitted or sanctioned under other ordinances, permits, or municipal events, so long as such sales conducted from structures as defined by the Town of Fairlee's Unified Development Bylaw require a zoning permit.
- E. Activities that are described as children's play, such as, "Lemonade Stand"
- F. Fundraising activities conducted by a non-profit organization.

Section IX. Violation and Penalties

- A. Failure by an itinerant vendor to obtain a permit prior to engaging in activities regulated by this Ordinance or to abide by any applicable permit conditions constitutes a violation. Each day that a violation continues shall constitute a separate violation of this ordinance.
- B. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation: a civil penalty of \$100.00 for the first offense and \$125.00 for the second offense and each subsequent offense.
- C. An Enforcement Officer is authorized to recover a waiver fee of \$125.00, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the waiver fee.
- D. The Town may apply to the Superior Court to enjoin a repeated violation if due application for a permit has not been made, or it appears reasonably probable that the conditions imposed by the permit will not be complied with.

Section X. Enforcement

- A. The violation of this Ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in Superior Court, at the election of the Selectboard.
- B. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, the Town Administrator shall have the authority to issue tickets and represent the Town at any hearing.
- C. Violations enforced in Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town may pursue all appropriate injunctive relief and civil remedies.

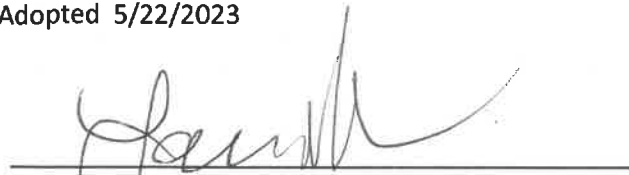
Section XI. Other Laws and Severability

- A. This Ordinance is in addition to all other ordinances of the Town and all applicable laws in the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
- B. If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

Section XII. Effective Date

This ordinance shall become effective sixty (60) days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the effective date of this ordinance.

Adopted 5/22/2023



Chair, Lance Mills



Vice Chair, Peter Berger



Cathy McGrath

Adoption History

1. Agenda item at regular Selectboard meetings held on
3/27/2023 5/8/2023
4/3/2023 5/15/2023
4/10/2023 5/22/2023
4/17/2013
2. Read and approved at regular Selectboard meeting on 5/22/2023 and entered in the minutes of that meeting, which were approved, on 6/5/2023.
3. Posted in public places on 6/6/2023, with a notice of the right to petition.
4. Published in the Journal Opinion newspaper 6/7/2023 with a notice of the right to petition.
5. Ordinance to become law on 8/4/2023 (60 days) from 6/5/2023