

TOWN OF DOVER-FOXCROFT

Proposed Amendment to the
Peddling and Soliciting Ordinance

Certified by:

Joan Kenny
Deborah E. Edger
John F. ...
Nancy G. Matulis
Thomas ...
Penny ...
...
Dover-Foxcroft Board of Selectmen

As approved at town meeting on June 27, 2005

Barbara J. Moore Town Clerk

TOWN OF DOVER-FOXCROFT

PEDDLING AND SOLICITING ORDINANCE

I. PURPOSE AND INTENT

The purpose of this Ordinance is to allow limited and controlled use of public ways and public lands for small-scale sales activities traditionally conducted in public places, such as farmers' markets and craft fairs, and through licensing to prevent nuisance conditions and threats to the public health, safety and welfare which could otherwise result if public ways and public lands were opened to the unlimited retail sales activities. The intent of this Ordinance is to allow appropriate public places to be used for the sale of goods, with a focus on products customarily produced in home businesses or sold at roadside farm stands or dockside locations; typically such goods and products are made, grown, caught, gathered, prepared, baked, cooked or canned/preserved by the seller.

II. LICENSE REQUIRED

No person or business shall expose for sale upon the public streets of the Town of Dover-Foxcroft (the "Town"), nor within a public right-of-way, nor upon any property owned or controlled by the Town, nor go from place to place in the Town exposing for sale and selling goods, wares or merchandise at retail without first having secured a license to do so as hereinafter provided.

III. GRANTING LICENSE BY TOWN CLERK

The Town Clerk may grant a license to expose goods for sale or sell goods upon the public streets of the Town, upon a public right-of-way, upon any public lands owned or controlled by the Town, or go from place to place in the Town exposing for sale and selling goods, wares, or merchandise at retail.

There shall be four initial classes of licenses: 1 day licenses; 3 day licenses; Season (May – Oct, 6 mos.) licenses; and One year licenses. License types shall be adjusted according to a schedule adopted by the Board of Selectmen. See Section VI of this Ordinance.

IV. APPLICATION FOR LICENSE

Application for a license shall be in writing on forms provided by the Town. It is a violation of this Ordinance to provide inaccurate information on a license application or to conduct the licensed activity in a manner different from the information provided on the application.

No license shall be issued unless the applicant provides to the Town a copy of the seller's certificate of registration with the Maine Sales Tax Assessor; a federal tax identification number, if required; and a proper scale registration if goods are to be sold by weight.

V. INFORMATION IN LICENSE

Every license issued under this Ordinance shall include: the name and address of the person to whom such license has been issued; the licensee's federal tax number, if required; the licensee's state sales tax number; the time period covered by the license; the date of expiration thereof; and the amount paid as a license fee therefore.

VI. FEE

Each applicant granted a license hereunder shall pay to the Town a license fee. These fees are to be adjusted according to a schedule adopted by the Board of Selectmen pursuant to the then current types of licenses adopted by the Board of Selectmen.

VII. REVOCATION AND SUSPENSION

The Clerk may revoke a license issued under this Ordinance upon finding that the licensee has violated any provision of the Ordinance. The clerk shall first give the licensee notice of the grounds for the proposed revocation and an opportunity to be heard. In an emergency affecting the public health, safety or welfare, the Clerk may suspend the license pending a hearing.

VIII. INELIGIBILITY FOR LICENSE

The Clerk may decline to issue a license to an applicant who was previously licensed under this Ordinance and – during the term of the most recent license held by that applicant – violated any provision of this Ordinance, if the Clerk finds that such a violation was intentional and material or if the Clerk finds that the applicant violated the same provision more than once. An applicant who is denied a license under this subsection is not permitted to reapply for 90 days

IX. DISPLAY OF LICENSE

Every person to whom a license is issued hereunder shall display such a license, so as to be clearly visible to public view at all times, when exposing for sale or selling any goods, wares, or merchandise at retail upon the public streets of the Town, upon a public right-of-way, or upon any public lands owned or controlled by the Town.

Every person to whom a license is issued hereunder, whenever demanded by a constable or police officer of the Town, shall provide such a license to the person demanding the same. Any person who neglects or refuses to do so, shall be subject to the provisions of Section VII of this chapter and such license may be revoked.

X. VIOLATIONS AND PENALTIES

Whoever shall expose for sale or sell upon the public streets of the Town or upon a right-of-way, or upon any property owned or controlled by the Town, or go from place to place in the Town exposing for sale or selling goods, wares, or merchandise in violation of the Ordinance shall be punished by a fine of not more than one hundred dollars (\$100), with each day to be considered a separate violation, to be recovered on complaint for the use of the Town.

The Town reserves the right to revoke any license granted and the right to withhold the granting of future licenses to serious and/or repeat violators of this Ordinance.

XI. RETAINED AUTHORITY OVER PUBLIC PROPERTY

This Ordinance does not limit the authority of the Town to control public property. Whenever it deems it appropriate or necessary to do so, the Board of Selectmen may designate or change locations where the activities licensed under this Ordinance are allowed, prohibited, allowed subject to limitations and conditions, or the Board of Selectmen may designate specific locations for particular persons or types of activities licensed under this Ordinance. The Board of Selectmen may exercise this power by order, without amending this Ordinance, but shall first give notice and the opportunity to be heard to any existing licensee who would be affected by the Selectmen's proposed action. The Town Manager, in the event the Board cannot meet in a timely manner, has the authority to designate or change locations where the activities licensed under this Ordinance are allowed, prohibited, allowed subject to limitations and conditions, or may designate specific locations for particular persons or types of activities licensed under this Ordinance, so long as notice and opportunity to be heard is provided.

No seller shall have any exclusive right to any location in the public streets or property, nor shall any be permitted a stationary location, nor shall be permitted to operate in any congested area where the seller's operation might impede or inconvenience the public. For the purpose of this Ordinance, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

A license issued under this Ordinance does not provide a licensee with a property interest in the license or in any public streets of the Town, a public right-of-way, or any public lands owned or controlled by the Town. A license issued under this Ordinance is revocable at any time and is not assignable or transferable.

All challenges to a decision under this Ordinance shall be heard by the Town of Dover-Foxcroft Board of Appeals. All appeals of a Board of Appeals decision shall be to the Maine Superior Court pursuant to Maine Rule of Civil Procedure 80B.

XII. SIZE OF OPERATION LIMITED

No person licensed to use a public street, right-of-way, or public lands under this Ordinance shall utilize or occupy more than one hundred eighty (180) square feet.

XIII. NON-APPLICABILITY; EXEMPTION

Non-applicability

The provisions of this chapter shall not apply to commercial agents or other persons selling, by samples, lists, catalogs or otherwise goods, wares, or merchandise for future delivery, or persons selling newspapers or religious literature door to door.

Exemption

A license is not required for periodic sales, festivals, or events conducted by local non-profit, charitable, educational, cultural, religious, philanthropic, social or fraternal organizations, or periodic sidewalk sales by local tax paying businesses immediately adjacent to their premises. Any person, business, or organization qualifying for an exemption under this section is required to obtain an Exemption Certificate from the Town Clerk under this Ordinance.

XIV. GOODS, WARES AND MERCHANDISE OFFERED FOR SALE TO BE LIMITED

Goods, wares and merchandise offered for sale upon the public streets of the Town, upon a public right-of-way, or upon any public lands owned or controlled by the Town shall be limited to the following categories:

- A. Fresh fruit and vegetables;
- B. Seedlings and flowers;

- C. Fresh and frozen meats;
- D. Fresh eggs and dairy products;
- E. Fish, lobsters and other ocean products;
- F. Baked and canned goods;
- G. Cider, syrup, honey, jams and jellies;
- H. Herbs and organic products;
- I. Fiddleheads and wild berries;
- J. Wreaths and Christmas trees;
- K. Home made furniture and cabinetwork;
- L. Home made arts and crafts; and
- M. Mobile push carts and lunch wagons serving non-alcoholic beverages and fried, grilled or fresh sandwiches and incidentals.

XV. LICENSEE RESPONSIBILITIES

It shall be the responsibility of each licensee to ensure the area where they establish their sales is kept clean and that no merchandise, trash, litter or other materials are left in such area at the end of each day. Violations of this provision may result in the license revocation and punishment under section VII.