

CITY OF HAVERHILL
MASSACHUSETTS
CITY SOLICITOR'S OFFICE

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WILLIAM D. COX, JR.
CITY SOLICITOR

April 5, 2012

TO: John A. Michitson, President and Members of the Haverhill City Council

FROM: William D. Cox, Jr., Esq. 
City Solicitor

RE: Ordinance - Peddling and Soliciting

At the request of the Administration and Finance Committee, I have prepared an ordinance which requires all door to door salespersons to register with the Chief of Police and wear a photographic identification badge. I have attached a current copy of the appropriate Code section for your review.

If I can be of any further assistance, kindly advise. Thank you.

cc: James J. Fiorentini, Mayor



DOCUMENT

CITY OF HAVERHILL

In Municipal Council

~~ORDINANCE~~

MUNICIPAL ORDINANCE

CHAPTER 191

AN ORDINANCE RELATING TO PEDDLING AND SOLICITING

BE IT ORDAINED by the City Council of the City of Haverhill that the Code of the City of Haverhill, Chapter 191, Article IV, as amended, be and hereby is further amended as follows:

ARTICLE IV

Peddlers and Hawkers, Transient Vendors and Fixed Location Vendors

191-9 Licenses.

By deleting the first sentence of paragraph J., and, inserting in place thereof the following:

“Any person, firm or corporation engaging in the business of a door to door sales, whether taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, and including orders for future delivery, are required to register with the Chief of Police, provide positive identification, complete an application signed by the applicant, be photographed, and sign a photograph identification badge. Any person, firm or corporation taking orders for future delivery shall also provide written daily notice as required by M.G.L. c. 101, §34 .”

Also by deleting the words “for future delivery” in the third sentence of paragraph J.

APPROVED AS TO LEGALITY


City Solicitor

GENERAL CODE



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Chapter 191. PEDDLING AND SOLICITING

[**HISTORY:** Adopted by the City Council of the City of Haverhill as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. [182](#).

Parades and processions — See Ch. [185](#).

Special sales — See Ch. [204](#).

Tag days — See Ch. [227](#).

Article I. Hawkers and Peddlers

[Adopted as Secs. 23-18 and 23-19 of the 1963 City Code (Ch. 191, Art. I, of the 1980 Code)]

§ 191-1. Crying of wares prohibited; condition of vehicles.

No person hawking, peddling or carrying or exposing any articles for sale shall cry his wares to the disturbance of the peace and the comfort of the inhabitants of the City nor otherwise than in vehicles or receptacles which are neat and clean and do not leak.

§ 191-2. Peddling near schools.

No licensed or unlicensed hawker or peddler shall sell or offer for sale on any public street, way or public place in the City within 2,000 feet of any school in the City any goods, wares or merchandise between the hours of 8:00 a.m. and 4:00 p.m. on days when the schools of the City are in session.

Article II. Solicitors and Canvassers

[Adopted 6-30-1964 by Doc. 176 (Ch. 191, Art. II, of the 1980 Code)]

§ 191-3. Registration required; hours.

No person or group of persons, solicitors, salesmen or canvassers shall solicit funds as authorized by Chapter 68 of the General Laws or other laws or sell or offer for sale any products or merchandise upon the public ways or in any other public places or on private premises in the City of Haverhill after 8:00 p.m. nor unless registered with the Chief of Police.

§ 191-4. Licensing; fees.

[Added 4-8-2003 by Doc. 58]Any person soliciting or canvassing shall pay a fee to the City of Haverhill for such license which shall be approved by the Police Department and granted by the City Council. The fee for such license shall be \$60.

§ 191-5. Exemptions.

[Added 4-8-2003 by Doc. 58]This shall not pertain to Boy or Girl Scouts, religious organizations or any fund raising for school organizations.

Article III. Ice Cream Vendors

[Adopted 6-23-1981 by Doc. 122 (Ch. 191, Art. III, of the 1980 Code)]

§ 191-6. Licensing of vendors.

- A. Licenses for the sale of ice cream and related products from a vending truck shall be issued by the Board of Health. The initial licenses shall be granted to expire on the first anniversary of the effective date of this legislation.
- B. There shall be issued no more than two such licenses during the course of any given year.
- C. Whenever a license hereunder is issued to a vendor whose principal place of business is located within the City of Haverhill, such license shall limit to two the number of vending trucks to be used by the licensee.
- D. Whenever a license hereunder is issued to a vendor whose principal place of business is located outside the City of Haverhill, such license shall limit to one the number of vending trucks to be used by the licensee.
- E. The fee for licenses issued hereunder shall be set by the Board of Health.

- F. In evaluating an application for a license to sell ice cream and related products from a vending truck, the Board of Health shall consider the following criteria:
- (1) Whether the applicant has sufficient vending equipment to adequately service the needs of the City.
 - (2) The number of years the applicant has been engaged in the sale of ice cream and related products from vending trucks within the City.
 - (3) The extensiveness and quality of the applicant's line of products to be offered for sale to the public.
 - (4) Whether the applicant's business is located within the City.
 - (5) Whether the applicant has previously had a license to peddle within the City.
 - (6) Whether the applicant has been convicted within the prior 12 months of any offense against the laws of Massachusetts or the ordinances of the City relating to peddling.
 - (7) Whether the applicant is a person of good moral character and has a good business reputation within the City.
 - (8) Any other factors relating to the applicant deemed relevant by the Board of Health in determining whether the issuance of a license to him will best serve the general welfare of the residents of the City.
- G. The Board of Health shall regulate the issuance, revocation, suspension and renewal of all licenses hereunder.
- H. Any individual, corporation, partnership or other entity to which a license hereunder is issued shall be entitled, at least 30 days prior to the expiration of such license, to apply for renewal of such license, said renewal to be granted unless for good cause shown.
- I. Nothing contained in this § 191-6 shall apply to the issuance or other disposition of a license to sell ice cream and related products from a vending truck at the Haverhill Municipal Stadium, and no license issued hereunder shall entitle the licensee to operate at said stadium. *Editor's Note: Original § 191-4J, re: effectiveness for one year unless amended, which immediately followed this subsection, was repealed 6-8-2004 by Doc. 84 and 12-7-2004 by Doc. 155.*

§ 191-7. Licensing of vendors at Haverhill Municipal Stadium.

- A. Licenses for the sale of ice cream and related products from a vending truck at the Haverhill Municipal Stadium shall be issued by the Board of Health. The initial licenses shall be granted to expire on the first anniversary of the effective date of this legislation.
- B. There shall be issued no more than two such licenses during the course of any given year.
- C. Such license shall stipulate that the licensee shall use no more than one vending truck per licensee in the sale of ice cream and related products at the Haverhill Municipal Stadium.
- D. The fee for such licenses shall be set by the Board of Health.
- E. In evaluating an application for a license to sell ice cream and related products from a vending truck, the Board of Health shall consider the following criteria:
 - (1) Whether the applicant has sufficient vending equipment to adequately service the needs of the stadium.
 - (2) The number of years the applicant has been engaged in the sale of ice cream and related products from vending trucks within the City.

- (3) The extensiveness and quality of the applicant's line of products to be offered for sale to the public.
 - (4) Whether the applicant's business is located within the City.
 - (5) Whether the applicant has previously had a license to peddle within the City.
 - (6) Whether the applicant has been convicted within the prior 12 months of any offense against the laws of Massachusetts or the ordinances of the City relating to peddling.
 - (7) Whether the applicant is a person of good moral character and has a good business reputation within the City.
 - (8) Any other factors relating to the applicant deemed relevant by the Board of Health in determining whether the issuance of a license to him will best serve the general welfare of the residents of the City.
- F. The Board of Health shall regulate the issuance, revocation, suspension and renewal of all licenses hereunder.
- G. Any individual, corporation, partnership or other entity to which a license hereunder is issued shall be entitled, at least 30 days prior to the expiration of such license, to apply for renewal of such license, said renewal to be granted unless for good cause shown. *Editor's Note: Original § 191-5H, re: effectiveness for one year unless renewed, which immediately followed this subsection, was repealed 6-8-2004 by Doc. 84 and 12-7-2004 by Doc. 155.*

Article IV. Transient Vendors and Peddlers and Hawkers of Seasonal Products

[Adopted 12-1-1981 by Doc. 212 (Ch. 191, Art. IV, of the 1980 Code)]

§ 191-8. Definitions.

[Amended 11-9-1982 by Doc. 193; 12-7-2004 by Doc. 155]The following words shall for the purposes of this article have the following meanings, unless the context requires otherwise:

FIXED LOCATION VENDOR

Any person who, for himself or for another person, engages in the sale of goods, wares, merchandise, food or beverages at a fixed location which is carried on in any fixed or mobile cart, wagon or tables.[Amended 10-5-2010 by Doc. 104]

HAWKER or PEDDLER

Any person who, for himself or for another person, travels by foot, automobile or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services. This shall include persons engaged in door-to-door sale for future delivery as defined by MGL c. 101, § 34.[Amended 3-21-2006 by Doc. 39]

SEASONAL PRODUCTS

Christmas trees, wreaths, baskets, blooming plants and cut flowers.

TRANSIENT VENDOR

Any person who, for himself or for another person, who engages in a temporary or transient business in the commonwealth selling goods, wares or merchandise, either in one locality or in traveling from place to place. Temporary or transient business shall mean any exhibition and sale of goods, wares or merchandise which is carried on in any tent, booth, building or other structure, unless such place is open for business during usual business hours for a period of at least 12 consecutive months.

§ 191-9. Licenses.

[Amended 11-9-1982 by Doc. 193; 11-14-1989 by Doc. 193-B; 7-13-1993 by Doc. 87; 6-28-1994 by Doc. 99;

2-4-1997 by Doc. 23; 4-20-1999 by Doc. 64; 7-23-2002 by Doc. 116; 6-8-2004 by Doc. 84; 12-7-2004 by Doc. 155]It shall be unlawful for any person, firm or corporation to engage in the business of hawker/peddler without first having secured a state license or a license from the City. It shall be unlawful for any person, firm or corporation to engage in the business of transient vendor without first having secured a state license and a license from the City. It shall be unlawful for any person, firm or corporation to engage in the business of fixed location vendor without first having secured a license from the City.

- A. Application. Applications for permission to use City property or to sell on City streets, sidewalks, public ways or in any public space shall be made to the City Clerk and shall be subject to the approval of the City Council. Applications shall state thereon the kind of merchandise to be sold, the proposed location of the business, the dates and times of operation and the permanent address and telephone number of the vendor.
- B. Fee. The fee for a hawker/peddler license shall be \$62, unless the applicant has a state license in which case there shall be no fee. The fee for a transient vendor or a fixed location vendor shall be \$100 for a period of less than 30 days or \$300 for a period exceeding 30 days.
- C. Prior approvals. Before such a permit is issued, approval shall be obtained from the Chief of Police (registration and traffic safety, etc.); Building Inspector (signs, zoning, regulations, etc.); Wiring Inspector (lights, etc.); Recreation Director (use of Riverside Park and area in front of or on the side of Haverhill Stadium); Fire Inspector; and Health Department (food or beverage sales).
- D. Hours of operation. No sales activity shall be allowed before 9:00 a.m. and after 9:00 p.m. without the prior permission of the City Council.
- E. The sale of silly string or similar type goods or snap caps and stink bombs or similar explosives or any facsimile cigarettes during a parade or public event in the City of Haverhill is prohibited.
- F. A permit to sell may only be used by the person whose name appears on the City license, unless an employee is working under a licensed vendor and obtains a separate employee license. The fee for such an employee license shall be \$25, and the employee license shall run with the term of the licensed vendor.

[Amended 10-5-2010 by Doc. 104]

- G. No transient vendor or fixed location vendor license shall be issued without the applicant indemnifying the City of Haverhill from any and all claims arising out of the maintenance of such a location and by placing on file a sidewalk obstruction bond in the amount of \$5,000 as set forth in § 222-46 of this Code.
- H. All permits issued under this section may be effective for up to one year, commencing on January 1 and with an expiration date of December 31 of the year in which the permit is granted. Any license which is not renewed for the upcoming year by December 1 of the prior year may be subject to reassignment in accordance with the provisions of § 191-11B.

[Amended 10-5-2010 by Doc. 104]

- I. Any person, firm or corporation engaging in the business of hawker/peddler within the City of Haverhill who is operating on the basis of a state license solely shall register with the Chief of Police at least 24 hours prior to conducting business and shall provide the kind of merchandise to be sold, the proposed areas and locations in which they will engage in their business, the dates and times of operation, the permanent address and telephone number of the vendor, and a copy of a valid state hawker/peddler license.
- J. Any person, firm or corporation engaging in the business of door-to-door sales for future delivery is required to register with the Chief of Police pursuant to MGL c. 101, § 34, provide positive identification, complete an application signed by the applicant, be photographed, sign a photograph identification badge, and provide written daily notice as required by MGL c. 101, § 34. Notwithstanding

any other provisions of this section, permitted hours of activity are limited from 9:00 a.m. to 6:00 p.m. All persons engaged in the business of door-to-door sales for future delivery must conspicuously wear on outer garments the photograph identification badge provided by the Police Department. A registration fee of \$50 shall be paid to the Police Department for each person so registered. All persons, firms or corporations registered with the Police Department must comply at all times with the provisions of MGL c. 101, § 34, and this chapter. The penalty for any violation of MGL c. 101, § 34, and/or this chapter may include the revocation of certification by the Police Department, along with other penalties as provided for by law. These provisions shall not apply to any person who goes door to door on behalf of any group organized for any political purpose, the sale or delivery of newspapers or any corporation organized for charitable purposes, such as schools, religious organizations or the Boy/Girl Scouts.

[Added 3-21-2006 by Doc. 39]

§ 191-10. Seasonal products; fee.

[Added 7-13-1993 by Doc. 87; 4-20-1999 by Doc. 64; 4-8-2003 by Doc. 58; 6-8-2004 by Doc. 84; 12-7-2004 by Doc. 155] It shall be unlawful for any person, firm or corporation to engage in the business of transient vendor or fixed location vendor for the sale of seasonal products without first having secured a City license pursuant to the requirements of § 191-9. The fee for a license to sell seasonal products shall be \$200.

§ 191-11. Permitted fixed locations; exceptions.

[Added 7-13-1993 by Doc. 87; amended 5-16-1995 by Doc. 88; 4-20-1999 by Doc. 64; 11-9-2004 by Doc. 146; 12-7-2004 by Doc. 155]

A. Permitted locations. Selling within the City of Haverhill of products licensed under § 191-9 by fixed location vendors shall only be permitted within the boundaries of these areas:

[Amended 10-5-2010 by Doc. 104]

- (1) Winnekenni area, Route 110: one vendor.
 - (2) Bradford Common: one vendor.
 - (3) Riverside Park: one vendor.
 - (4) Washington Square: one vendor.
 - (5) GAR Park: one vendor.
 - (6) Swasey Park: one vendor.
 - (7) Outside Haverhill Stadium at Lincoln and Nettleton Avenues: one vendor.
 - (8) Other areas as approved by the City Council.
- B. Vacated locations. Persons who wish to be considered for a permit for one of the above locations, when vacated, may notify the City Clerk, who shall maintain a waiting list, including the person's name, address and a date of receipt. Interested parties shall be notified when a location is vacated and shall have 30 days to apply for issuance of a permit. If more than one person applies for a particular site, preference shall be given to the earliest qualified applicant, as determined by the City Council. If no person has applied for a permit within 30 days or if there are no persons on the waiting list, the location shall be granted to the earliest qualified applicant, if the City Council so determines. The waiting list must be renewed every two years, with those applicants on the list to be notified by the City Clerk by regular U.S. mail to renew the application by November 1. Persons may be permitted for more than one location if allowed by the City Council. Any valid permit for which no person operates for a period of 30 days or more between April 1 and October 1 may be subject to revocation by the City Council, after notice and hearing.

[Amended 10-5-2010 by Doc. 104]

C. Exceptions. The following areas shall not be permitted to have any type of selling by either a transient vendor or hawker/peddler:

(1) All municipal parking areas.

(2) Plug Pond.

(3) Meadowbrook Conservation Area.

(4) Within 300 feet of any public school building, notwithstanding the provisions of § 191-2.

(5) Within 25 feet of any parade route commencing 1/2 hour prior to the start of said parade, except for those permitted to sell in accordance with § 191-12.

§ 191-12. Special events.

[Amended 7-13-1993 by Doc. 87; 4-20-1999 by Doc. 64; 12-7-2004 by Doc. 155]

A. Fixed location vendors shall also be permitted to operate during special events, provided that a notification of intent to operate during the special event is filed with the event director or committee at least 30 days prior to said special event and the event director or committee approves the specific location. The event director or committee shall not unreasonably withhold approval for operation during a special event; however, the event director or committee shall have exclusive jurisdiction over the assigned specific location at which any person(s) may operate.

B. Notwithstanding the provisions of § 191-9B, the fee for fixed location vendors who are designated as "sponsor vendors" by the event director or committee of a special event, which has been endorsed by the City Council as a municipal enhancing event, shall be waived, provided that a one-time fee of \$250 for all such sponsor vendors is paid by the event director or committee of a special event and each such sponsor vendor files an application pursuant to this article. This fee shall be effective only for the duration of the special event. Sponsor vendors shall comply with all other ordinances, rules and regulations of the City, excepting the requirement of a sidewalk obstruction bond pursuant to § 191-9G which shall be waived if in the opinion of the City Solicitor the special event has sufficient liability insurance coverage.

[Added 10-18-2005 by Doc. 136-B] *Editor's Note: Original § 191-7.4, Street vending during the Great Race on June 13, 1998, added 5-26-1998 by Doc. 83, which followed this section, was repealed 6-8-2004 by Doc. 84 and 12-7-2004 by Doc. 155.*

§ 191-13. Fraud; violations and penalties.

[Amended 7-13-1993 by Doc. 87]

A. Fraud. Any licensed transient vendor or peddler or hawker who shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee, while acting in the City, or who shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license or who shall fail to comply with the conditions and restrictions contained herein shall be deemed guilty of a violation of this article.

B. Penalty. Any person, firm or corporation violating any provision of this article shall be fined not less than \$50 nor more than \$250 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Article V. Leafletting

[Adopted 12-15-1992 by Doc. 174 (Ch. 191, Art. V, of the 1980 Code)]

§ 191-14. Distribution of leaflets.

No person, organization, company or other entity shall distribute or cause to be distributed leaflets, pamphlets or other material by attaching the same to motor vehicles belonging to another person.

§ 191-15. Cleanup responsibilities.

Any person, organization, company or other entity either legally or illegally distributing or causing to be distributed leaflets, pamphlets or other material shall be responsible for the cost of cleaning up litter which is the result of the distribution. This section may be enforced by either a civil or criminal proceeding.

Article VI. Exterior Vending Machines

[Adopted 2-1-2011 by Doc. 13]

§ 191-16. Purpose.

The purpose of this article is to protect, preserve and maintain the public health, safety and welfare by regulating business activities relating to exterior vending machines, as defined herein. This article sets forth requirements for the review of exterior vending machines so that such machines may be permitted without adversely affecting the public health, safety and welfare.

§ 191-17. Definitions.

As used in this article, the following terms shall have the meanings indicated:

EXTERIOR VENDING MACHINES

Any automated machine that is placed outside of a fully enclosed building and that is designed to allow consumers to insert monies by way of cash, credit or debit cards and obtain goods, merchandise or products stored within or produced by the machine, excepting all food, beverage or cigarette vending machines.

§ 191-18. License required.

The use and/or placement of all exterior vending machines shall require a license from the City Council. Each license shall be valid for one calendar year. Application for such licenses shall be on a form prescribed by the City Clerk, and a fee of \$100 shall be paid for each machine to be licensed. The application shall be submitted to the Police Chief, Fire Chief, Building Inspector, Wiring Inspector and the Board of Health for review and comment prior to the City Council taking final action on the application. The City Council shall then hold a public hearing on such license. In determining whether to issue such a license, the City Council may consider issues pertaining to hours of operation, traffic, lighting, noise and such other issues as may affect the public health, safety and welfare. The City Council may impose reasonable conditions upon the issuance of any such license. Each licensed machine shall display a sticker from the City evidencing that it is properly licensed.

§ 191-19. Violations and penalties.

A. The following penalties shall be applied in addition to any other remedies available in this article:

- (1) First offense: \$150.
- (2) Subsequent offense: \$300.

B. Each day of violation shall be an independent violation which may result in a separate citation.

§ 191-20. Severability.

The provisions of this article shall be severable and if any section, part, or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of such court. *Editor's Note: So in original.*