

ORDINANCE #27

TOWN OF HANOVER ORDINANCE OF THE BOARD OF SELECTMEN

The Board of Selectmen of Hanover, New Hampshire, ordain as follows:

STREET VENDOR

1. **Declaration of Purpose:** The purpose of the adoption of this Ordinance is to promote the safe flow of vehicular and pedestrian traffic on Public Ways; prevent the incidence of fraud and other commercial crimes; reduce litter and pollution; and promote the health, safety and welfare of the public.
2. **Title:** This Ordinance shall be known and may be cited as the “Street Vendor Ordinance of the *Town of Hanover*.”
3. **Authority:** RSA 47:17 VII and VIII; see also Stamper v. Hanover, 118 N.H. 241 (1978).
4. **Definitions:**
 - A. “**Merchandise**” shall mean any food, beverage, clothing, utensils, wares, toys, tools, and other articles or items offered for legal purchase or sale to the public, but not including newspapers, magazines, pamphlets, and handbills.
 - B. “**Nonprofit Organization**” shall mean any association or organization, which in accordance with United States Internal Service Regulations is established for a civic, educational, cultural, religious, social, political, scientific, philanthropic, or other charitable purpose.
 - C. “**Person**” shall mean any natural person, corporation, partnership, association, club or society or any other form of association or organization.
 - D. “**Public Way**” shall mean the entire area legally open for public use within the boundary lines of any government or municipally owned or maintained road, street, alley, sidewalk, walkway, parking lot, or park.
 - E. “**Shopkeeper**” shall mean any person owning or operating a store, restaurant or shop from a permanent structure in the Town.
 - F. “**Stand**” shall mean a table, bench, booth, rack, handcart, pushcart, or any other fixture or device used for the purpose of displaying, distributing, storing, or transporting merchandise.
 - G. “**Street Fair**” shall mean a community event in the Town that uses and occupies a portion of a Public Way designated by the Town for the sale of merchandise by commercial retailers or for other promotions by Nonprofit Organizations.
 - H. “**Temporary Outlet**” shall mean those locations in the Town designated in Section 6 of this Ordinance at which a vendor shall be permitted to buy, sell, distribute or display merchandise.
 - I. “**Town**” shall mean the Town of Hanover, New Hampshire.
 - J. “**Vendor**” shall mean any person who has been issued a valid Vendor Permit.

K. “**Vendor Permit**” shall mean the approved application of a person under the conditions as set forth in Sections 8 and 9 of this ordinance. A Vendor Permit provides a person with a license to buy, sell, distribute or display merchandise at a designated Temporary Outlet in the Town.

5. Vendor Permit Required:

A. No person shall buy, sell, display or distribute merchandise upon a Public Way in the Town without first obtaining a valid Vendor Permit. Each Vendor Permit shall designate the location and dates and time during which a person may buy, sell, distribute or display merchandise.

1) **Shopkeeper Exclusion:** No shopkeeper shall be required to obtain a Vendor Permit to buy, sell, distribute or display merchandise in the Public Way immediately in front of the store, restaurant or shop that he/she owns or operates. However, all shopkeepers shall be subject to the regulations on the Use of Temporary Outlets set forth in Section 15 of this ordinance.

B. **Street Fairs:** Any Nonprofit Organization that would like to conduct a Street Fair shall apply for an Outdoor Activities Permit at least sixty (60) days prior to the proposed date for the Street Fair. All Street Fairs require a valid Outdoor Activities Permit obtained through the Town Manager’s Office.

1) **Shopkeeper Exclusion Suspended:** On the days that Street Fairs are held, the Shopkeeper Exclusion under Section 5.A.i of this ordinance is suspended. No shopkeeper shall buy, sell, display or distribute merchandise upon a Public Way in the Town without first obtaining permission from the Nonprofit Organization conducting the Street Fair, including payment of any applicable fees to the Nonprofit Organization.

6. Location of Temporary Outlets:

A. The following locations are approved for Temporary Outlets in the Town (see attached maps for additional information):

1) One Temporary Outlet located on the West side of South Main Street at the Wheelock intersection; the vendor must be away from the curb and against the fence of Casque & Gauntlet to the right side of the entrance steps.

2) One Temporary Outlet located on the East side of South Main Street at the Wheelock intersection; the vendor must be along the curb in front of the marked NO PARKING pavement adjacent to the turning lane of north-bound South Main Street turning onto East Wheelock.

3) One Temporary Outlet located on the East side of South Main Street along the curb (away from the building face) to the left-side of the upstairs entrance to the Lang Building.

- 4) One Temporary Outlet located on the East side of South Main Street along the curb (away from the building face) to the right-side of the upstairs entrance to the Lang Building.
- 5) One Temporary Outlet located on the West side of South Main Street along the curb (away from the building face) in front of Town Hall.
- 6) One Temporary Outlet located on the West side of South Main Street in front of the Town Hall gardens to the right of the front entrance.
- 7) One Temporary Outlet located on the West side of South Main Street in front of the Town Hall gardens to the left of the front entrance; the vendor must be clear of any adjacent benches.

B. Upon request, additional Temporary Outlets may be assigned from time to time by the Town Manager in consultation with the Police Department, the Fire Department, the Planning and Zoning Department, and/or other Town departments, as appropriate.

7. **Terms of Temporary Outlets:**

- A. The three Temporary Outlets located in front of Town Hall (—as described in 6.A.5; 6.A.6; and 6.A.7 above) shall have a term of nine months, running from March 1 through November 30 of each year. In the event that a Temporary Outlet in front of the Municipal Building has not been assigned for a nine-month term, the Town Manager may assign that Temporary Outlet on a daily basis in conformance with Section 9 of this ordinance. From December 1 through the end of February, the three Temporary Outlet locations are available for use as a daily permit location.
 - 1) **Nine-Month Term Temporary Outlets (#5, #6, #7):** Persons seeking to obtain a Vendor Permit for a Temporary Outlet with a nine-month term (March 1–November 30) shall file a written application pursuant to Section 8 between the period of November 15 and November 30. A renewing vendor in these three nine-month temporary spaces shall have the right of first option to retain their temporary outlet. New applicants shall be placed in a lottery; should any of the nine-month term temporary outlets not be subject to renewal by a current vendor, new vendors shall be selected via lottery. The Town will award the permit by no later than December 5. Payment will be due to the Town by no later than January 1.
 - 2) **Nine Month Term (March 1–November 30) Temporary Outlets (#5, #6, #7) not purchased by March 1:** If still available for longer-term use by March 1, these three temporary vendor spaces may be assigned through November 30, provided that the applicant pays for the full amount of the first month (this amount will not be pro-rated based on start date during the month) and commits to monthly payments before the first of the service month through November.

3) **Limited Absences Permitted at Temporary Outlets with Nine-Month Terms:** After obtaining a nine-month Temporary Outlet Vendor Permit, a vendor may be absent from his or her assigned Temporary Outlet for a maximum of 15 days per month due to illness, vacation or other circumstances. Any vendor that is absent or fails or neglects to utilize a Temporary Outlet for more than 15 days per month shall notify the Town Clerk's Office and obtain written permission to avoid having his or his Vendor Permit revoked. During any approved absence in excess of 15 days, the Town Clerk's Office may assign that Temporary Outlet to other vendors on a daily Vendor Permit basis.

B. **Daily Temporary Outlets:** Temporary outlets that are not subject to a nine-month term shall only be available for a daily Vendor Permit (#1, #2, #3, #4). No person may apply for more than one Temporary Outlet on any given day.

1) **Application for Temporary Outlet for Daily Term:** Any person seeking to obtain a daily Vendor Permit shall submit his/her application to the Hanover Town Clerk no sooner than 8:30 AM on the day before the applicant seeks to use a Daily Temporary Outlet. As the Town Clerk's Office is closed over the weekend, a vendor may submit an application on Friday to secure a daily Permit for a Temporary Outlet for Saturday, Sunday and Monday, or any combination of these three days (the daily permit fee will be assessed for each separate day).

2) **Award of Temporary Outlet for Daily Term:** The Town Clerk's Office may issue a Vendor Permit to any person who has submitted a complete and accurate application pursuant to Section 8, below. The Town Clerk's Office shall issue the Vendor Permit to the requested Temporary Outlet space based on a first-come, first-served basis. In the unlikely event that two Vendors arrive simultaneously, and both desire the same Temporary Outlet space, the Vendors shall determine among themselves who was there first before the Town Clerk's Office will issue a Vendor Permit to either Vendor. In the event that no such determination can be made by the Vendors, a coin toss by staff of the Town Clerk's Office will determine the Permit recipient.

8. **Application for Vendor Permit:** Any person seeking the issuance of a Vendor Permit shall file an application with the Town Clerk on the forms provided. An Application Form for a Vendor Permit shall include the following information:

- A. Name, address and telephone number of the person seeking to obtain a Vendor Permit;
- B. The assigned number and location of the Temporary Outlet desired;
- C. A brief description of the nature of the person's business and the merchandise to be bought, sold, displayed or distributed;
- D. A statement describing the dimensions, construction and appearance of the Vendor's Stand;
- E. The Vendor must have a Certificate of Insurance for general liability with a minimum

coverage of \$500,000 from an insurance company authorized to do business in the State of New Hampshire and naming the Town as Certificate Holder. The Certificate of Insurance shall contain a provision that it shall not be cancelable except upon ten days' notice to the Town Clerk; and

- F. A statement as to whether a daily or nine-month term is desired.
9. **Issuance of Vendor Permit:** Upon receipt of a complete and accurate application and the appropriate payment, the Town Clerk's Office may issue a Vendor Permit to the Vendor named in the application. Any Vendor Permit may be withdrawn by the Town or the Town may refuse to renew a vendor permit if it is determined that the information contained in the Vendor Permit application is false or non-existent in any material detail or if a vendor is determined to have violated the provisions of this ordinance, other local ordinances or state law as pertains to the vendor operator.
 - A. **Display of Vendor Permit:** Upon issuance of a Vendor Permit, a vendor shall attach the Vendor Permit to the front of his/her Stand in such a manner so that it is visible easily for the public to view.
 - B. **Vendor Permits Are Non-Transferable and Non-Assignable:** All Vendor Permits issued by the Town are non-transferable, non-negotiable and non-assignable.
 - C. **Special Allowance for Local Fundraising Activities:** The Town Manager has the authority to grant Vendor Permits to local non-profit organizations (i.e.; school groups, local Boy Scout or Girl Scout troops, arts organizations, etc.) that are conducting local fundraising activities and to waive the requirements for a certificate of insurance if provision of such places a hardship on the organization.
10. **Payment for Vendor Permit:**
 - A. **Daily Temporary Outlets:** The charge for a Vendor Permit for daily Temporary Outlet, payable upon receipt of the daily Vendor Permit, shall be fifteen dollars (\$15.00).
 - B. **Nine-Month Temporary Outlet:** The charge for a Vendor Permit for a Temporary Outlet assigned on a nine-month bid basis shall be one-thousand two hundred dollars (\$1,200.00) and is due and payable in nine equal installments of one-hundred thirty-three dollars and thirty-three cents (\$133.33) on the first of each month. The first payment must be received by no later than January 1. Failure to submit timely payment may result in the revocation of the Vendor Permit by the Town. In the event that a Vendor Permit is revoked for non-payment, the Vendor shall be disqualified from applying for any Temporary Outlet for a period of one year.
 - C. **Reimbursement for a Vendor Permit:** Under no circumstances will the Town reimburse a Vendor for a Vendor Permit.

11. Use and Regulation of Temporary Outlets

A. Stand Regulations

- 1) **Dimensions**: No Stand for a Temporary Outlet shall exceed eight feet (8') in length; five feet, six inches (5'6") in height; or occupy an area of the sidewalk in excess of forty (40) square feet. All Stands shall be positioned so that the long side of the Stand is parallel to the curb. No Stand or vendor's operation shall reduce the traveled way of a sidewalk to less than six feet (6') in width.
- 2) **Construction**: All Stands shall be constructed in a sturdy manner so that there is no risk to the public. No Stand shall have a roof or structural components higher than five feet, six inches (5'6").
- 3) **Umbrellas Permitted**: An umbrella, canopy or awning may be attached to the Stand so as to shelter the Vendor. However, no umbrella or awning shall obstruct unreasonably the sight of motor vehicle operators or pedestrians. Tents, awnings or canopies with sides are not allowed.
- 4) **Inventory**: All inventory or supplies of the Vendor shall be stored inside or under the Stand so as not to obstruct travel upon the Public Way.
- 5) **Removal at End of Business Day**: All Stands and Vendor belongings shall be removed from Public Way by sunset.

B. **Trash and Solid Waste**: No vendor shall discharge or cause to be discharged any trash, grease, ash or other form of solid waste onto any Public Way or into any storm drain. Each vendor shall make a trash receptacle available to the public at the Temporary Outlet location that he or she operates and shall be responsible for collecting and removing all solid waste from his/her designated Temporary Outlet at the end of each business day.

C. **Open Fires Restricted**: No vendor shall make or cause to be made an open fire in any Temporary Outlet without first obtaining a valid permit from the Hanover Fire Department.

D. **Health and Food Regulations**: No vendor shall sell, display or distribute alcoholic beverages. All vendors selling, distributing or displaying food shall comply with all State and Town health and food laws and regulations including, but not limited to, New Hampshire Public Health Services Administration Rules HE-P 2326.01 regarding mobile food units and pushcarts.

E. **Noise Restrictions**: No vendor shall make unreasonably loud outcries, ring bells, blow horns, or use any noisy device for the purpose of attracting attention to his or her Stand or merchandise. No vendor shall operate or cause to be operated any fuel driven engine used to generate electricity or heat.

F. **Parking**: No vendor shall receive special privileges related to parking in municipal parking spaces as a result of being awarded a Vendor Permit. All regular parking regulations and restrictions are in effect and the Vendor will not be afforded any special treatment regarding parking enforcement. In addition, as a requirement of an awarded Vendor Permit, vendors

shall agree not to park their vehicles on Main Street, except for a 15-minute period at the beginning and end of the business day for the purpose of unloading and loading their wares. Vendors found violating the agreement will be subject to revocation of their permit under section 12 of this Ordinance.

12. Vendor Permit Suspension and Revocation

- A. **Suspension of Vendor Permit**: The Town may suspend, without any refund of permit fees, the Vendor Permit of any person found to be in violation of this ordinance. On the day that a Vendor Permit is suspended, the Town Clerk's Office shall provide the Vendor with written notification informing him/her of the violations or reasons for the suspension. Thereafter, the Vendor shall have five working days to correct the violations.
- B. **Revocation of Vendor Permit**: In the event a Vendor does not, within five days, correct the violations outlined in the notice of suspension, the Town shall revoke the Vendor Permit for a period of one year. The Town Clerk's Office shall provide a Vendor with written notification on the day the Vendor Permit is revoked.
- C. **Appeal Procedure**: A Vendor who has had a Vendor Permit revoked shall have the right to appeal to the Board of Selectmen. The appeal request shall be filed with the Board of Selectmen within five (5) days after the revocation of the Vendor Permit and shall be acted upon by the Board of Selectmen at its next scheduled meeting. Upon such appeal, the Board of Selectmen may reverse, affirm or modify in any regard the determination of the Town Clerk's Office. The Board shall issue a written decision to the Vendor aggrieved within fifteen (15) days of the appeal hearing.

13. **Emergency Regulations**: The Town Manager may suspend the Vendor Permit provisions and regulations set forth in this ordinance for a period not to exceed 24 hours, in anticipation of an event or combination of events to occur in the Town that may cause significant traffic congestion or possibly jeopardize the public safety and convenience.

14. **Penalty**: Any person found to be in violation of this Ordinance shall be subject to a fine of two-hundred fifty dollars (\$250.00) per day for the first offense, and five-hundred dollars (\$500.00) per each of any subsequent offenses.

15. **Regulations for Conducting Street Fairs**: Any Nonprofit Organization may apply to the Town for an Outdoor Activities Permit to conduct a Street Fair for no more than three consecutive business days. A Street Fair may include but is not limited to the purchase or sale of merchandise by commercial retailers or promotions by Nonprofit Organizations. An Outdoor Activities Permit issued for a Street Fair gives a Nonprofit Organization the right to use two blocks of South Main Street, between East and West Wheelock Street and Maple and South Street, including setting up boxes, shelves, stands and other devices to conduct sales and promotions. The Outdoor Activities Permit issued for a Street Fair also gives the Nonprofit Organization the right to grant Temporary Outlet permits and require fees from commercial retailers that participate in the Street Fair.

16. **Severability:** If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid by a court of law, the invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application and to this end, the provisions of this ordinance shall be severable.

EFFECTIVE DATE

Having held a public hearing, the Board of Selectmen voted to adopt this revised Ordinance on the 16th day of November, 2015 which shall be the effective date hereof.

IN WITNESS WHEREOF, a majority of the Board of Selectmen have hereunder set their hands.

TOWN OF HANOVER
BOARD OF SELECTMEN

P. Christie
Peter L. Christie, Chair

Athos J. Rassias
Athos J. Rassias, Vice Chair

Nancy A. Carter
Nancy A. Carter

William Geraghty
William Geraghty

Joanna Whitcomb
Joanna Whitcomb



TOWN OF HANOVER

ORDINANCE #27

STREET VENDOR ORDINANCE

Date of Notice as to Posting and Publication: September 28, 2015 and October 19, 2015

Date of Public Hearing: October 26, 2015

Date of Adoption: November 16, 2015

Date of Notice of Adoption and Effective Date: November , 2015

Date of Recording in the Town Records: November , 2015

Elizabeth McClain

Elizabeth A. McClain, Town Clerk



Town of Hanover, State of New Hampshire
Application for Vendor Permit
Questions? e-mail townclerk@hanovernh.org
or call 603-640-3200

1. Applicant's Name: _____
2. Name of Business: _____
3. Business Address: _____
4. Phone Number(s): _____
5. Temporary Outlet Space # Requested: _____
6. Daily Vendor Permit for (insert date) _____ Nine-Month Vendor Permit (Mar-Dec)
7. Description of Business and Merchandise to be Sold: _____

8. Description of Stand Appearance (must include dimensions, include list of accessory equipment – if any):

9. Certificate of Insurance naming the Town of Hanover as Certificate Holder received (min. \$500k)

INDEMNIFICATION AGREEMENT

The applicant agrees to pay on behalf of the Town all sums which the Town shall be obligated to pay by reason of any liability imposed upon the Town for damages of any kind resulting from the applicant's use of the public right of way caused by accident or otherwise; and shall defend at its own expense and behalf of the Town any claim against the Town arising out of the applicant's use of the public right of way.

Signature of Applicant: _____ Date: _____

Print Applicant Name: _____



TOWN OF HANOVER VENDOR PERMIT

Business Name: _____
Address: _____
Telephone Number: _____
Space #: _____ **Effective Date(s):** _____

Approved:

Elizabeth A. McClain, Town Clerk



Vendor Spaces

Delineated By Survey Pins

- #1 W. Wheelock & Main 5'x8' (40 sq ft)
- #2 E. Wheelock & Main 5'x8' (40 sq ft)
- #3 Hanover Inn 5'x8' (40sq ft)
- #4 J. Crew 5'x8' (40 sq ft)
- #5 S. Main 5'x10' (41 sq ft)
- #6 Town Hall 5'x10' (50 sq ft)
- #7 Town Hall 5'x10' (50 sq ft)

