

**Notice of Public Hearing**  
**Proposed Amendments to New Shoreham General Ordinances**  
**Chapter 8, Licenses and Business Regulations**  
**Article V “Hawkers, Peddlers and Itinerant Vendors”**  
**Town Hall, Old Town Road, Block Island**  
**Wednesday, November 20, 2019**  
**7:00 p.m.**

The New Shoreham Town Council will hold a public hearing to consider changes to New Shoreham’s Revised General Ordinances Chapter 8 Licenses and Business Regulations by amending Article V “Hawkers, Peddlers and Itinerant Vendors.” The proposed ordinance appears below in its entirety. Words to be removed are stricken through, words to be added are underlined. The Town Council may act on this proposal at the time and place noted above, and all persons for or against will be heard.

**Chapter 8, Article V “Hawkers, and, Peddlers and ~~Itinerant Vendors~~ and Itinerant Vendors”**

**Sec. 8-110. - Definitions.**

~~The definitions in G.L. 1956, §§5-11-1.1 and 5-15-1, are hereby adopted by reference except as may be herein modified.~~

~~The definitions in G.L. 1956, §§ 5-11-1.1 and 5-15-1, are hereby adopted by reference except as may be herein modified.~~

For purposes of this Article V, the following definitions shall apply:

"Hawk" means to sell or to offer for sale any goods, wares, or merchandise, including any food or beverage, on any public street, highway, or public right of way in the state from a stationary location.

"Hawker" means any person selling or offering for sale any goods, wares, or merchandise, including any food or beverage, on any public street, highway, or public right of way in the state from a stationary location.

"Peddle" means to sell or to offer for sale any goods, wares, or merchandise from a vehicle, cart, or any other conveyance that is not stationary; provided, however, that “Peddle” shall not include activities conducted by Mobile Food Establishments registered pursuant to Title 5, Chapter 11.1 of the Rhode Island General Laws entitled: the "State Mobile Food Establishment Registration Act," and Mobile Food Establishments are not regulated under this Article V.

"Peddler" mean any person selling or offering for sale any goods, wares, or merchandise from a vehicle, cart, or any other conveyance that is not stationary; provided, however, that “Peddler” shall not include Mobile Food Establishments registered pursuant to Title 5, Chapter 11.1 of the Rhode Island General Laws entitled: the "State Mobile Food Establishment Registration Act," and Mobile Food Establishments are not regulated under this Article V.

**Sec. 8-111. - License required.**

(a) No person shall hawk; ~~or~~; peddle; ~~offer for sale or sell~~, offer for sale or sell on any public or private street, lane or road within the town or upon any undeveloped property or upon any area designed primarily for pedestrian passage ~~any goods, wares or merchandise whatsoever, including any food or beverage, from a stationary location or structure or from a vehicle, cart or any other conveyance which is not stationary,~~ any goods, wares or merchandise whatsoever, including any food or beverage, from a stationary location or structure or from a vehicle, cart or any other conveyance which is not stationary, without first having obtained a license issued by the town council pursuant to the provisions of this

~~article; provided, however, that the primary goods and merchandise sold under the license must be food and beverages.~~ Article V.

(b) At no time shall a peddler, ~~or~~ hawker or the like ~~or the like~~ operate on town-owned roads, rights-of-way, town property, beaches, shorelines or open space lands without the specific special permission of the town council.

**Sec. 8-112. - Application for license; fee; holding multiple licenses; transfer.**

(a) All hawkers, ~~and~~ peddlers, ~~itinerant vendors and persons selling or offering for sale any goods, wares or merchandise whatsoever, including any food or beverage, as described in section 8-111, itinerant vendors and persons selling or offering for sale any goods, wares or merchandise whatsoever, including any food or beverage, as described in section 8-111,~~ shall make application on a form provided by the town clerk, to the town council for a license. ~~Such application shall be made even if such applicant holds a state license as provided in G.L. 1955, §5-11-1.1 et seq. Such application shall be made even if such applicant holds a state license as provided in G.L. 1956, § 5-11-1 et seq.~~ The town council may approve or disapprove the issuance of any license, having in mind the location of the operation, the type, form and size of the structure or vehicle, cart or any other conveyance which is not stationary, and the safety and welfare of the public at large. The town council shall set the limits of the operating hours for each license.

(b) If approved by the town council, the town clerk shall issue a license ~~to sell the articles or substances mentioned in section 8-111~~ to sell the articles or substances mentioned in section 8-111 upon the payment of a fee of \$50.00. Licenses shall be issued in the name of one individual and for one location, if stationary, or one vehicle, cart or other conveyance if not stationary. No license where food products are involved shall be issued until all approvals required by the state department of health are obtained.

(c) No more than one license may be issued to any one individual and no such license may be transferred to any other individual, nor may it be used at more than one location; provided, however, that any individual currently holding a license or an individual applying for a license may apply to the town council for permission to operate at a different location under the license during the period commencing November 1 and ending March 31.

(d) To be qualified, an applicant must prove that he or she meets the following criteria, in addition to any other criteria that may be imposed by regulations promulgated pursuant to this article:

(1) The applicant must have been a resident of the town as defined in section 2-2, for five consecutive years prior to the date of the original application.

(2) The applicant must have been a qualified elector of the town for five consecutive years prior to the date of application, unless ineligible by reason of age.

(e) No license shall be issued without the hawker or peddler providing proof that he or she has been issued a permit to make sales at retail by the division of taxation.

**Sec. 8-113. - Exemptions.**

(a) No license shall be required of any person selling religious books and publications on behalf of Bible, tract or other religious or moral societies for the purpose of promoting religious or moral improvement, which items are sold for that purpose and not for any pecuniary profit, ~~in accordance with the provisions of G.L. 1956, § 5-11-1 et seq.,~~ in accordance with the provisions of G.L. 1955, §5-11-1.1 et seq. , nor of any person peddling or selling any articles of wearing apparel manufactured with his or her own hands.

- (b) The provisions of this article are not intended to apply to individuals 14 years of age or younger so long as they are not operating in the employ of someone over the age of 14.
- (c) No license shall be required under Sec. 8-111 of any person catering a private function on private property within the town.

**Sec. 8-114. - Term of license.**

Any license issued shall be valid for not more than one year and shall expire at the end of the calendar year in which it is issued unless sooner revoked or suspended.

**Sec. 8-115. - Limited licenses for nonprofit corporations.**

Nonprofit organizations shall be allowed to apply under the same terms contained herein for a one-day license. If approved by the town council, the town clerk shall issue a license upon the payment of a fee in accordance with the then applicable licensing fee schedule as adopted by the town council and on file with the town clerk. The maximum number of licenses referred to in section 8-118 shall not apply to these one-day licenses.

**Sec. 8-116. - Penalty for not obtaining license.**

Anyone who sells or offers for sale any goods, wares or merchandise whatsoever, including food or beverages, without first obtaining a license from the town council as provided in this article shall be subject to a fine of \$200.00, ~~or imprisonment not exceeding ten days, as provided by the provisions of G.L. 1955, §5-11-18. or imprisonment not exceeding ten days, as provided by the provisions of G.L. 1956, § 5-11-18.~~

**Sec. 8-117. - Suspension or revocation of license.**

A license issued under the provisions of this article may be suspended or revoked for just and good cause after notice and hearing before the town council.

**Sec. 8-118. - Maximum number of licenses.**

Under the provisions of this article, the town council shall be authorized, but not obligated, to issue a maximum of three licenses in any one year.

The maximum number of licenses for the following calendar year shall be set by the town council at the first Monday town council meeting which occurs in November.

**Sec. 8-119. - Restrictions on operation.**

(a) ~~Except as set forth in 8-124, no~~ Except as set forth in 8-124, no hawker ~~or~~ , peddler ~~, itinerant vendor~~ or tradesman of any kind shall sell or offer for sale food or merchandise of any kind except in the permissible operation areas designated by the town council on the list on file with the town clerk. The permissible operation areas for the following calendar year shall be set by the town council at the first Monday town council meeting which occurs in November.

(b) The chief of police shall, from time to time, submit to the town council streets which, in his opinion, because of excess traffic and congestion, are unsafe for the selling or offering for sale of merchandise by hawkers, peddlers and the like.

(c) At no time shall a hawker, peddler or the like impede the free flow of pedestrian traffic or vehicular traffic. The chief of police is hereby authorized to suspend the operation of hawkers, peddlers or the like at any time and for such periods of time on streets and areas where conditions exist that require him, in his opinion, in the interest of public safety, to do so without a prior request to the town council.

(d) No license holder shall operate under a license issued herein except during the hours set by the town council in connection with the issuance of the license.

(e) Every individual license holder must be physically present onsite to operate and conduct the activities permitted by the license for a minimum of seventy-five percent (75%) of the actual hours of operation. Upon just and good cause shown and upon application to the town council, the town council may waive, reduce or otherwise alter this requirement.

**Sec. 8-120. - Procedure for issuance of license.**

(a) Within thirty (30) days of the filing of an application for a license hereunder, whether an original or renewal license, the town council shall take action on the application and shall consider the applications in the order in which they are completed in accordance with this article.

(b) Applicants who are denied licenses due to unavailability because of the issuance of the maximum number hereunder as provided for in section 8-118 or such other number as the town council may determine shall be placed on the waiting list as provided in section 8-123.

(c) In determining the fitness of the applicant to be licensed, hereunder, the town council shall consider all information set forth in the application to be filed and the solvency, financial standing, liability insurance coverage and any other matter which the town council deems pertinent to safeguard the public interest, including without limitation, the applicant's compliance with town ordinances.

(d) Each license shall permit the sale of goods, wares or merchandise, including if applicable any food or beverage, at one (1) geographic location in which the plan referenced in section 8-119 permits.

**Sec. 8-121. - Review of application by Town Clerk**

Upon the filing of an application for a license hereunder or renewal thereof, the town clerk shall determine whether the application is complete in accordance with the terms of this chapter. If the application is incomplete, the town clerk shall forthwith notify the applicant at the address contained in the application. When the application is complete, the town clerk shall forward it to the town council for action.

**Sec. 8-122. - License—Renewal.**

(a) Each license may be renewed on or after the first of each year, by application made as provided in paragraph (b) below. An applicant who is granted a license shall obtain the license from the town clerk within thirty (30) days of the granting of same or May 1 of the year for which the license is granted, whichever is later. Otherwise the license may be revoked by the town council.

(b) Each licensee who seeks to renew a license shall submit an application between November 15 and December 1 of the year in which the license was issued. Licensees seeking renewal of their licenses and who comply with this section in a timely fashion shall be given preference for the following year over applicants on the waiting list.

**Sec. 8-123. - Waiting list.**

The town shall maintain a waiting list of applicants for licenses under this article. Applicants who are denied licenses because of the unavailability of additional licenses to be issued under this article shall be placed on the waiting list in the order in which applications are acted upon by the town council. When a license becomes available, the applicant first on the waiting list shall be considered next for a license, subject to the provisions of this article limiting the number of licenses which may be issued hereunder as shall then be effective.

Amendment posted: October 30, 2019  
Public Hearing: November 20, 2019  
Adopted:  
Effective date:

Fiona Fitzpatrick, New Shoreham Town Clerk