

An Ordinance to Regulate Street Vendors

Section I. Purposes.

The Inhabitants of the Town of Dayton find that the streets, ways and public places of the town exist for the use and benefit of the general public, that no person enjoys an inherent right to use these streets, public ways and other public areas as a place of business, and that the privilege of doing so must be regulated in order to promote traffic safety, visual character of the Town and the general health, safety and welfare of the community. The Dayton Zoning Ordinance regulates the use of private property but has no control over the use of streets and ways. This ordinance is enacted to establish a licensing system whereby, the streets, public ways and other public areas of the Town of Dayton may continue to be available as a place of business, but in such a manner as to not become a public nuisance.

Section II. License Required

No person shall engage in any street vending business without obtaining a license from the Municipal Officers. The license required by this section shall be in addition to any other license which may be required by municipal ordinance or state statute.

Section III Definitions.

Words and terms in this ordinance shall have their common meaning, except words or terms that are defined in the Dayton Zoning Ordinance shall have the meaning given in that ordinance, and words or terms defined below shall have the following meaning.

Street Vending Business - the business of selling or causing to be sold, displaying for sale, distributing samples of or demonstrating goods or services of any kind whatsoever, or soliciting orders for the future sale or delivery of the same in the streets, public ways or public places of the Town of Dayton, but does not include

1. businesses which transport passengers for hire;
2. businesses which perform emergency ambulance or motor vehicle repair or towing services;
3. any business insofar as it uses the streets, ways or public places for the transportation or delivery of goods or services to destinations not in the streets, ways, and public places; and
4. businesses conducted on public property pursuant to leases from, or contracts or agreements with the Town of Dayton;

Street Vendor - any person who engages in any street vending business.

Streets, Ways, and Public Places - The entire width between the property lines of every town way or ~~or~~ state highway and all grounds and parks owned by the Town of Dayton.

Section IV. Applications

Applications shall be made in writing on forms provided by the town for this purpose. The application shall include the name, full mailing address and telephone number of the applicant; the name, full mailing address and telephone number of the business; the precise nature of the proposed business indicating the types of goods and services proposed to be sold or offered for sale; a description of the equipment, including motor vehicles, proposed to be used in the business; the proposed location(s) of the business; and the hours of operation, including the months of the year, the days of the week and time of day.

Section V. Review Procedure.

Applications shall be submitted to the office of the Town Clerk by mail or in person during regular business hours. The applicant shall notify the owners of property within 500 feet of the proposed location that an application will be submitted and provide proof of notification with the application. The Clerk shall indicate the date the application is received on the application and forward the application to the Municipal Officers for review. Within fifteen days of receipt of the application, the Municipal Officers shall notify the applicant of the time and place the Municipal Officers will review the application. Within twenty-one days of receipt of the application, the Municipal Officers shall, review the application and make a determination whether the standards of Section VI are met. Upon finding that the standards of Section VI are met, the Municipal Officers shall issue the permit. Upon finding that the standards of Section VI are not met, the Municipal Officers shall prepare written findings of fact and either issue the permit with conditions or deny the application. All conditions or approval or denials shall be in writing and indicate the reasons.

Section VI. Standards of Approval and Operation.

In determining whether a license shall be issued, the Municipal Officers shall exercise the discretion vested by this ordinance by resolving all questions in favor of the public health, safety, welfare, and convenience. In so doing they shall consider all relevant factors. Any street vending business in the Town of Dayton shall meet the following standards.

- A. Unless operated from a moving motor vehicle, such as an ice cream truck for example, the street vending business shall not have any vehicles or equipment parked, placed or located within ten feet of the paving of any street.
- B. Adequate room for parking of customers' motor vehicles shall not be closer than ten feet of the paving of any street.
- C. All signs not attached to and part of a registered motor vehicle shall conform to the provisions of the Maine Traveler Information Services Act, (Title 23, MRSA, Section 1914).

D. No street vending business shall be located within 100 feet of the intersection of two public ways.

E. No street vending business shall be conducted on the premises of a public school, except those related to activities authorized by the town.

F. No license shall be issued to any person whose street vendor's license was revoked within the three years preceding any application.

Section VII. Enforcement

This ordinance shall be enforced by the Code Enforcement Officer, established by the Dayton Zoning Ordinance. The Code Enforcement Officer shall follow the enforcement procedures of the Dayton Zoning Ordinance. If the Code Enforcement Officer finds that the holder of a license is in violation of the provisions or conditions of approval of the license, the Code Enforcement Officer shall order the violation to cease and notify the Municipal Officers. Within fourteen days of notification from the Code Enforcement Officer, the Municipal Officers shall hold a hearing. The license holder shall be notified in writing no less than seven days prior to the hearing. Upon a finding that a violation continues, the Municipal Officers shall revoke the license.

Section VIII. Appeals.

An aggrieved applicant or an aggrieved owner of property within 500 feet of the proposed location of a stationary street vending business may appeal the decision of the Municipal Officers to York County Superior Court within 30 days of the decision in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Section IX. Legal Provisions

A. This Ordinance is enacted under the home rule authority of the Maine Constitution and Title 30-A MRSA, Section 3001.

B. Any person who violates any provision of this ordinance shall be punished in accordance with Title 30-A MRSA, Section 4452.

C. The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held to invalid or constitutional, such decision shall not affect the validity of the remaining portions of this ordinance, but they shall remain in effect.