

ARTICLE III. BOARDWALK VENDORS AND PEDDLERS-PROGRAM
Ordinance #569

Sec. 13.1-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boardwalk area means those areas owned by the Town of Colonial Beach from Colonial Avenue to Hawthorn Avenue on the Frances Karn Boardwalk.

Peddle and *peddling* means and includes the act of carrying from door to door any goods, wares or merchandise and offering to sell or barter the goods, wares or merchandise or actually selling or bartering such goods, wares or merchandise.

Peddler means and includes but is not limited to any person who carries from door to door any goods, wares or merchandise in a vehicle and offers to sell or barter the goods, wares or merchandise or who actually sells or barter the goods, wares or merchandise.

The term "*peddler*" does not include the following:

- (1) A farmer who peddles farm products grown or produced by such farmer and not purchased by such farmer for sale in the Town; and
- (2) A merchant who sells and delivers goods, wares or merchandise at the same time to dealers or retailers, institutions or commercial or industrial establishments and not to consumers.

Vendor means any person engaged in the selling or offering for sale of food, beverage or merchandise, on public property located in Boardwalk area within the Town.

Violation means a failure to adhere to the guidelines as set forth in this Article.

Sec. 13.1-42. Use of Boardwalk area property by vendors.

It shall be unlawful for any vendor to display or offer products, goods, wares and merchandise, food or beverage for sale on any Boardwalk area except with prior approval of the Town Manager in compliance with the regulations developed and administered by the Town Manager.

Sec. 13.1-43. Application for vendor's permit.

- (a) A vendor's s permit shall be valid from the time of issuance until the end of that calendar year. Applications for a vendor's permit shall be accepted beginning January 2nd of each calendar year. The application for vendors who do not require Health

Department certification for food items shall pay an annual fee of \$ 100.00. Vendors who do require Health Department certification for food items shall pay an annual fee of \$ 175.00. In the event a vendor does not utilize their space for three consecutive weekends, the applicant may be deemed to have forfeited his permit based on the determination of the Town Manager. All fees shall be paid in full prior to the issuance of a vendor's permit.

(b) Vendor permits shall be conditioned upon a list of available dates, which may exclude special events and holidays. These dates shall be uniformly applied to all vendor permits. One-time vending locations during the celebration of July 4th, Labor Day, or other holidays as designated by the Town Manager shall require a fee of \$250.00, and shall be based upon space availability. The Town Manager may deny an application based on the need for a variety of products and wares, and to encourage the best use of Town property.

(c) The use of loudspeakers, public address systems, amplified radios or other sound devices to attract the attention of the public shall be prohibited.

(d) The vendor shall be responsible for picking up, removing and disposing of all trash or refuse attributable to his vending.

(e) The vendor shall file with the Town proof of liability insurance providing coverage for all claims for damage to property and bodily injury, including death, which may arise from the vending operation within the Town with a combined single limit of liability of not less than fifty thousand dollars (\$50,000) per occurrence. Such policy shall be issued by an insurance company licensed to do business in the Commonwealth of Virginia. Said policy must contain an endorsement naming the Town as an additional insured and providing the Town with at least thirty (30) days prior written notice before any cancellation or termination.

(f) The vendor shall comply with all applicable Health Department regulations.

(g) The vendor shall be responsible for the provision of, and all charges resulting from, the need for and use of utilities, including but not limited to, electricity, water and sewer, trash disposal and telephonic services. The Town Manager may negotiate an agreement for such services provided that all costs and liabilities are covered.

(h) Vendors shall display all applicable permits and licenses at all times while vending on Boardwalk property.

(i) Vendor permits are not transferable and vendor spaces shall not be sublet to any other party under any circumstance.

Sec. 13.1-44. Issuance of vendor's permit.

(a) Not later than thirty (30) days after the filing of an application for a vendor's permit, the applicant shall be notified as to the decision on the issuance of the permit. All vendors' permits shall be issued according to the time and date of receipt of the application for any available location, and based on a first come, first served basis. A location shall be considered available only if it has been designated by the Town Manager as a vending location and there is no permit issued for the location. In the event of multiple applications for the same type of vendor offering, the Town Manager may deny an application based on the need for a variety of products and wares, and to encourage the best use of Town property.

Sec. 13.1-45. Enforcement.

(a) This article shall be enforced by the Town Manager.

(b) Upon receiving a complaint about a vendor, or observing a possible violation, the Town Manager shall investigate and determine whether a violation has occurred. If the Town Manager makes such a determination, a written notice shall be sent via certified mail to the address supplied by the applicant on the permit application. Upon a vendor's second written violation within a sixty (60) day period, the Town Manager shall notify the vendor that the vendor's permit is revoked. The vendor may schedule a hearing on the revocation with the Town Manager. If the Town Manager determines that the vendor has committed two (2) violations within a sixty (60) day period, the revocation shall remain effective. An individual whose permit is revoked shall not vend in Boardwalk area for two (2) years from the date of the second conviction.

(c) The Town Manager may revoke a vendor permit after giving notice to the holder of the permit, and no portion of the permit fee may be refunded. The permit may be revoked for any good cause shown which includes, but is not limited to, harassment of citizens, or any other action which is offensive or could constitute an annoyance or danger to the citizens of the Town. All persons working or volunteering under of the auspices of any vendor shall be subject to the same code of conduct. Any violation by any person working or volunteering for a vendor shall be considered a violation by the vendor and be subject to enforcement proceedings under this article.

Sec. 13.1-46. Permit required for peddlers.

It shall be unlawful for any person to offer any item for sale within the Town as a peddler or through the act of peddling without first obtaining a permit from the Town Manager. The cost of applying for a permit shall be one hundred fifty (\$150.00) dollars and each permit issued shall be valid for a period of ninety (90) days. All applicable local and state licenses shall be required prior to the issuance of peddler permit.

Peddler permits shall not authorize any person, group or organization to sell their wares on the Boardwalk area property.

Sec. 13.1-47. Revocation of peddling permits.

The Town Manager may revoke a peddling permit after giving notice to the holder of the permit, and no portion of the permit fee may be refunded. The permit may be revoked for any good cause shown which includes, but is not limited to, conviction of a crime, harassment of citizens, or any other action which is offensive or could constitute an annoyance or danger to the citizens of the Town.

Sec. 13.1-48. Exemptions.

Any sales or use of Boardwalk area property by vendors conducted by or on behalf of bona fide nonprofit charitable, civic or religious organizations which can provide the Town Manager with a letter of tax exemption issued by the Internal Revenue Service may be exempt from the requirement of paying the vendor fee. Likewise, sales or use of Boardwalk area property conducted on behalf of any public or private school or any school club, team or association may be exempt from the requirement of paying the vendor fee. All such organizations shall still be required to obtain a Vendor permit, all applicable licenses, and reserve a Boardwalk area space pursuant to the Town Manager's approval.

Sec. 13.1-49. Penalties for violations of this article.

Any person violating any provision of this article shall be guilty of a class 3 misdemeanor.

Secs. 13.1-50. Reserved.