

# **NEWCASTLE TRANSIENT SELLERS & LUNCH WAGONS ORDINANCE**

## **1. Purpose.**

The purpose of this ordinance is protection of the general public, it's health and welfare, pursuant to the police powers and home rule authority of the Inhabitants of Newcastle under 30-A M.R.S.A. § 3001 et seq. and 30-A MRSA § 3931. Pursuant to those powers, this ordinance seeks to provide municipal licensing and regulation of Transient Sellers and Lunch Wagons.

## **2. License Required.**

- a. Transient sellers of consumer products and operators of lunch wagons shall obtain a license from the Town as set forth herein before selling, offering or exposing for sale any food, goods, wares, merchandise or products of any kind for more than seven days in any calendar year within the territorial bounds of Newcastle.
- b. The application and license shall be area specific. Applicants for a transient seller's license or a lunch wagon license who desire to operate in more than one area at the same time shall obtain a separate license for each area of business.
- c. The Code Enforcement Officer of Newcastle shall enforce this ordinance. The decisions of the Code Enforcement officer shall be appealable to the Newcastle Board of Appeals as detailed in 30-A M.R.S.A. §2691.

## **3. Definitions.**

"Transient sellers" means any person who engages in the business of selling products to consumers from vehicles, trailers, carts or other mobile or automotive machines or who solicit sales at roadside locations within the bounds or right of way of any public way within the Town.

"Lunch wagon" means a vehicle, trailer or cart which is used for the sale of food.

"Nonprofit charitable organization" means any not for profit organization formed for charitable purposes.

#### **4. Exemption**

Persons selling on behalf of public service of non-profit organizations, schools, or charities are exempted from the requirements of this ordinance.

Persons selling farm produce located on their own property are exempted from the requirements of this ordinance.

#### **5. Compliance with other laws**

Prior to obtaining a Transient Sellers or Lunch Wagon license in Newcastle, Applicants shall provide the Town copies of their required State licenses.

Applicants required to register as a transient seller pursuant to 32 MRSA §4681 shall produce proof of registration at time of application.

Applicants required to register as victualers pursuant to 30-A MRSA §3811 shall produce proof of registration at time of application.

Transient sellers and lunch wagon operators are not permitted to place any permanent structures onto the ground without complying with all ordinances and laws.

#### **6. Fee.**

The license shall be obtained from the Board of Selectmen following the submission of any application form to be obtained from and returned to the Town Clerk. The Board of Selectmen shall periodically establish a schedule of fees for the licenses herein described.

#### **7. Term.**

Any license issued under this Ordinance shall expire on December 31 of each calendar year.

#### **8. Prohibited Locations.**

No licensee under this Ordinance may conduct business within the boundaries or rights of way of State Route 1.

#### **9. Non-Transfer.**

Licenses issued under this Ordinance shall not be transferable and fees paid are non-refundable.

## **10. Penalty.**

Failure to obtain such license prior to selling goods, wares, merchandise or products of any kind is punishable by a fine of not less than \$25.00 and not more than \$250.00.

## **11. Revocation.**

Licensees under this Ordinance have the responsibility of keeping the area designated for their business pursuits clean of rubbish, food and or food products related to their business. Failure to maintain a clean site shall be cause for cancellation of the license. Any revocation or suspension of a license shall be subject to the provisions in 30-A MRSA §3814 per occurrence.

## **12. Lunch Wagons.**

Operators of "lunch wagons" who obtain the license required by this Ordinance shall not be required to obtain any other license under 30-A MRSA § 3931. A license shall not be issued if the Lunch Wagon will inconvenience public travel.

## **13. Public Restroom Facilities**

Operators of "lunch wagons" who operate in a single location, or upon a single tax lot, in Newcastle for more than ninety (90) days out of every calendar year shall provide access to an approved lavatory connected to an approved and licensed lavatory or shall provide access to a portable toilet. Portable toilets shall operate pursuant to all Ordinances and State and Federal laws. Failure to provide access to a lavatory or public toilet shall be ground for immediate revocation of the license provided under this ordinance.

## **14. Conversion to Permanent Use**

When a transient seller or lunch wagon has been located in a single location in the Town of Newcastle for more than 365 days in any 730-day period, the transient seller or lunch wagon operator shall promptly comply with the other ordinances of Newcastle as a permanent use on a lot and obtain all necessary approvals for the use as though it were a structure. For the purposes of the shoreland zoning ordinance, a transient seller or lunch wagon shall not be treated as a structure as long as it is in a road worthy condition and properly licensed under this ordinance.