

## TOWN OF BELL, BAYFIELD COUNTY, WISCONSIN

### Ordinance Regulating Transient Merchants Located within the Town of Bell

Amended Ordinance No. 01-17

The Town Board of the Town of Bell, Bayfield County, State of Wisconsin, being duly assembled at a regular Town Board meeting on May 14, 2019, does hereby ordain that the Town of Bell Ordinance Regulating Transient Merchants Located within the Town of Bell, Ordinance No. 01-17, is rescinded and recreated to read as follows.

#### SECTION (1) – DEFINITIONS

- A. "Peddler" means an individual, whether a resident of the Town of Bell or not, traveling by foot, bike, automobile, motor truck, ATV/UTV or other motorized craft, ship, boat, kayak, canoe, paddleboard or like vessel, or any other means of conveyance, from place to place, house to house, business to business, or from street to street for the sale of, as well as the selling, offering for sale or taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for immediate delivery or for services to be performed immediately, including for rentals, tours, demonstrations and/or instruction or use of bikes, ships, boats, kayaks, canoes, paddleboards or like vessels, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or not or whether he is collecting advance payment on such sales or not.
- B. "Solicitor" means any individual, whether a resident of the Town of Bell or not, travelling by foot, bike, automobile, motor truck, ATV/UTV or other motorized craft, ship, boat, kayak, canoe, paddleboard or like vessel, or via any electronic means or any other means of conveyance, from place to place, house to house, street to street, through the water or via websites, or other marketing; using the Internet for the sale of, as well as the selling, offering for sale or taking or attempting to take orders for: (1) sale of goods, wares and merchandise, personal property of any nature whatsoever, for future delivery whether or not such individual has, carries or exposes for sale a sample of the subject of such sale; (2) or for services to be performed in the future whether or not such individual is collecting advance payment on such sales or not; or (3) a request, whether vocalized or not, for a donation other than in response to an inquiry from another person.
- C. "Solicit" means to request, by the spoken, written, or printed word, or by other means of communication, an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.
- D. "Merchandise." Merchandise shall be used in its broadest sense and includes property of every kind.

- E. "Park when prohibited" means to stand an occupied or unoccupied vehicle, ATV/UTV or other motorized craft, or bike other than temporarily while loading or unloading merchandise or passenger, or to have a stationary occupied or unoccupied ship, boat, kayak, canoe, paddleboard or similar vessel other than for less than five minutes for loading or unloading passengers. "Park when prohibited" shall also include leaving a vehicle, boat trailer, ship, boat, kayak canoe, paddleboard or similar vessel at the boat ramp at the Town of Bell Marina or in any area in the Town of Bell Marina and Town of Bell Waterfront Park Area not designated for that purpose, including all grassy areas.
- F. "Public Area" means all areas to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, beach, parking lot, alleyway, pedestrian way, or the common area of a commercial building, residence or Town of Bell Marina or Marina Complex.
- G. "Services." Services shall be used in its broadest sense and includes any work done for the benefit of another person, the instruction or transport of any person in exchange for payment or the rental or temporary use of any equipment or vessels.
- H. "Vendor" means any individual, whether a resident of the Town of Bell or not, who offers for sale food, beverages, goods, merchandise, delivery, or for services to be performed immediately or in the future, from a certain location that is not within a building or a structure for which a certificate of occupancy issued by Wisconsin State Agency is required by the Town of Bell. This term shall not apply to businesses that operate from within a building or structure within the Town of Bell for which a certificate of occupancy issued by Wisconsin State Agency is required and also displays or sells food, beverages, goods, merchandise, etc., directly outside the building or structure in which the business operates and shall not apply to businesses that operate from within a building or structure within the Town of Bell for which a certificate of occupancy issued by Wisconsin State Agency is required and who also provides services within the Town of Bell that relate to the use, rental, instruction or demonstration of goods sold within the building or structure for which a certificate of occupancy has been issued by the Wisconsin State Agency.

### **SECTION (2) – PERMIT REQUIRED.**

It is unlawful for any peddler, solicitor or vendor to engage in the business of selling, displaying, offering for sale of any goods, merchandise or services of any kind within the Town of Bell without first obtaining a permit from the Town of Bell Board.

#### **Permit Exemptions.**

The following are excluded from permitting provisions:

- A. Newspaper carriers;
- B. 1. Farmers who sell agricultural products that were raised or grown by them;



2. Cornucopia Farmer's Market – Local artist, local weavers, local potters, local soap makers, local jewelry makers selling their handmade items utilizing local products;
- C. Political speech;
  - D. Canvassers who attempt only to solicit political support or to determine opinions or sentiments;
  - E. Peddlers, Solicitors and/or Vendors operating within a designated Public Area in connection with a Special Event pre-approved by the Town of Bell Board. The appropriate body organizing the Special Event must first apply and receive a Special Event permit anticipating and approving such vendor sales for the Special Event;
  - F. Sales made to established businesses by commercial travelers or sales agents in the unusual course of business, or to sales made under authority and by order of law;
  - G. Individuals traveling to businesses or houses at the invitation of the resident or the owner.
  - H. Any operation which is exempted by state or federal statute from this chapter, only to the extent of such applicable exemption;
  - I. Children under 16 that are residents of the Town of Bell; or
  - J. Auction/Estate sales in the Town of Bell conducted for public purchase under state law.

**SECTION (3) – Use of State Highways, Town of Bell Marina, Town of Bell Roads and Town of Bell Parks Prohibited.**

It shall be unlawful for any Peddler, Solicitor or Vendor to engage in business on any State Highway within the Town of Bell, Town of Bell Marina, Town of Bell road, or Town of Bell Park unless permitted pursuant to this ordinance.

**Use of State Highways, Town of Bell Marina and Town of Bell Road Exemptions.**

Peddlers, Solicitors or Vendors may engage in business or park on a State/County Highway, Town of Bell Marina, Town of Bell Parks, or Town of Bell roads in connection with a special event approved by the Town of Bell.

It shall be unlawful for any Peddler, Solicitor or Vendor to Park When Prohibited and any Peddler, Solicitor or Vendor doing so may be subject to the penalties provided in this ordinance and the Peddler, Solicitor or Vendor's permit may be revoked by the Town of Bell Board.

**Section (4) – Use of Town of Bell Parks, Marina or Beaches.**

A Peddler, Solicitor or Vendor may not engage in business in Town of Bell parks, Marina or beaches without a permit issued by the Town of Bell Board of Supervisors.

**Section (5) – Use of Private Property.**

All Peddlers, Solicitors and Vendors must obtain a permit as provided herein prior to operate on private property in addition to any necessary permit from Bayfield County Planning and Zoning.

**Section (6) – Written Application Required.**

Any person desiring to engage in activities as a Peddler, Solicitor or Vendor within the Town of Bell must complete and file a written application for permit with the Town of Bell Clerk which application shall give the following information:

- A. Applicant's name, address, telephone number, email, address of where all business will occur within the Town of Bell, a copy of a valid photo ID either a driver's license or a State issued photo ID.
- B. If the applicant is peddling or making solicitations for any commercial, charitable or political organization, the full legal name, telephone number and address of such organization.
- C. Full and complete list of goods or merchandise to be sold and/or Services to be delivered and location.
- D. Full and complete list of all booths, trailers or items of transport and/or display that will be used in providing the good or service.
- E. Description (year, make, type) and valid license plate number and state of registration of all vehicles to be used in Soliciting, Vending and Peddling and a copy of the vehicle's current proof of Commercial liability insurance.
- F. A copy of the applicant's current State of Wisconsin Sales and Use Tax Permit together with written documentation from the State that all sales tax that may be due and owing by the vendor has been paid in full.
- G. A complete explanation of where prospective or actual customers or clients will be directed to park their vehicles.
- H. Vendors planning to provide motorboat tours shall provide proof off USCG OUPV (6-pack) for tours of 6 or fewer persons or Master 25-200 Near Costal Certification for all



tours of more than 6 persons. If providing sailboat tours, a sailing endorsement is required. All persons operating such boats shall have these required certifications. Additionally, any tour with over 6 passengers would also require a C.O.I. "Certificate of Inspection" for the vessel.

- I. If any other company, corporation, affiliate or individual is working with the vendor with respect to the selling of goods, wares, merchandise or private property in the Town of Bell or the provision of services, whether immediate or in the future, in the Town of Bell, the applicant must provide the full name, address, telephone number, and Sales and Use Tax Permit or FEIN for said company, corporation, affiliate or individual.
- J. Vendors planning kayak/canoe outfitting shall have US Park Service permits and follow US Park Service guidelines.

#### **Section (7) – Permit Fees.**

Permit fees shall be accompanied with the permit application. All Peddlers, Vendors and Solicitors not exempted shall be required to pay the permit fee.

#### **Section (8) – Permit Denial.**

- A. A copy of the application for permit will be referred to the Town of Bell Board for their consideration. An application for permit under this chapter may be denied where:
  - 1. Required application information is incomplete or incorrect;
  - 2. Applicant is currently wanted on warrant for arrest;
  - 3. A permit fee has not been paid;
  - 4. There are Fraudulent statements or omissions on permit application;
  - 5. The activity is not suitable or appropriate for the proposed location;
  - 6. The applicant or, if the applicant is a corporation, one or more owners or members of the corporation, have had complaints reported to the Town of Bell Board related to the activities a Peddler, Solicitor or Vendor within the past two (2) years. The applicant shall be permitted the opportunity to address the Town Board prior to denial if denial is for the purposes of this subparagraph.
- B. Notification of denial will be delivered in writing.

#### **Section (9) – Permit Issuance, Contents, Duration.**

- A. Each permit will be valid for 12 months from the date of issue and may be renewed in additional 12 month increments by review of the Town of Bell Board.
- B. The permittee is required to update any information required under Section (6) that has changes within five (5) working days of the change. Failure to update will constitute grounds for the Town of Bell to revoke the permit.
- C. Notification of permit approval will be issuance of said permit.
- D. Any permit issued pursuant to this Ordinance may include conditions determined by the Town of Bell Board to be necessary for the health, safety and welfare of Town residents; these conditions may include, but are not limited to:
  - 1. Limitations on the frequency with which the permit holder may use or access the Town of Bell Marina including limitations on how many ships, boats, kayaks, canoes, paddleboards or like vessels the vendor may launch from the Town of Bell Marina at one time and limitations on how many such crafts the vendor may launch from the Town of Bell Marina per day or per week.
  - 2. Limitations on the frequency with which the permit holder may use or access any other public property in the Town of Bell such as beaches, trails, and Town roads including limitations on how many cars, trucks, ATV/UTVs, bikes or other motorized or non-motorized methods of transportation may use the public property at one time and limitations on how many such cars, trucks, ATV/UTVs, bikes or other motorized or non-motorized methods of transportation may use the public property per day or per week.
  - 3. A requirement that the permit holder, or his or her agent, employee or assign, have the permit on his or her person while engaging in the permitted activities.
  - 4. Designation of locations at which and times during which the vendor may engage in the sale of the goods, wares, merchandise or personal property, or in the provision of services and a requirement that the vendor not operate at times or in locations that are not designated on the permit.

**Section (10) – Permit Nontransferability.**

Permits issued under the provisions of this chapter are not transferable in any situation.

**Section (11) – Permit Revocation.**

- A. The Town of Bell Board may revoke a permit granted herein.
- B. Prior to the revocation, the Town of Bell shall provide the permittee with written notice containing particulars of any and all complaint(s) against him or her, and the time, date and place for review of the complaints by the Town of Bell Board.
- C. After notice and review, the Town of Bell Board may revoke any permit issued under this chapter for reasons including but not limited to the following:



1. Fraudulent statements or omissions on permit application or ~~in~~ for improper or unpermitted conduct of permitted business;
  2. Any violation of Federal or State statute, or Town of Bell ordinance;
  3. Endangerment of public welfare, health or safety.
- D. Revocation of any permit shall bar the permittee from eligibility under this chapter for a period of one year from the date of revocation.

**Section (12) – Violation/Penalty and Enforcement.**

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction, pay a forfeiture of not more than \$500.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this Ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

Either the Town Board Chairman or a Code Enforcement Officer appointed by the Town Board shall have authority to issue citations.

**Section (13) Savings Claus.**

If any section, subsection, sentence, clause or phrase of this Ordinance is held for any reason or be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Town of Bell hereby declares that it would have passed and adopted this ordinance and each section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Permit fees shall be accompanied with the permit application. All Peddlers, Vendors and Solicitors not exempted shall be required to pay the permit fee.

**Section 14- Effective Date**

Following passage by the Town of Bell Town Board, this ordinance shall take effective thirty (30) days after the date of posting as provided by sec. 60.80, Wis. Stats.

Adopted by the Town Board of Supervisors for the Town of Bell on the 17th day of MAY 2019.

By: Roger Lindgren

Roger Lindgren, Chairperson

Date Published: 5/22/19

Attest: Mary Beth Tillmans

Mary Beth Tillmans, Clerk