

**ORDINANCE 22-17**  
**AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES, CHAPTER 112: PEDDLERS**

**BE IT ORDAINED BY** the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina, that Chapter 112: Peddlers be amended as follows.

**Section One:** Replace Chapter 112: Peddlers with the following:

§ 112.01 DEFINITION.

**PEDDLING** shall mean the selling, bartering, or exchanging or the offering for sale of any tangible personal property, including but not limited to food and ice cream, upon or along the streets, highways, or public places of the town or from private property within or without the permission of the owner thereof, from any wagon, truck, pushcart, concession stand, or tent, or other movable receptacles of any kind.

**Business Sale.** Any commercial activity in which any goods are offered for sale, but not including occasional sale of household goods by the owner.

**Sale.** Any trade work or offer of trade for currency, credit, services or goods

**Services.** Any work or act rendered for sale.

**Town.** Town of Holden Beach.

**Peddler.** A person who travels from place to place with an inventory of goods, who sells the goods or offers the goods for sale and who delivers the identical goods he carries with him.

**Itinerant Merchant.** A merchant, other than a merchant with an established retail store in the town, who transports an inventory of goods to a building, vacant lot, or other location in the town and who at the location displays the goods for sale and sells the goods or offers the goods for sale.

**Off Premise Sales.** something sold from a legal business that's consumed or used away from the four walls of an established legal business within the corporate limits of the town as permitted under the table in §157.054 of the Town of Holden Beach Code of Ordinances.

('85 Code, § 3-8.2) (Ord. 30, passed - - )

§ 112.02 PEDDLING PROHIBITED. Unlicensed Sales Prohibited

1. Pursuant to the authority granted under G.S. § 160A-178 and 160A-194, as amended, the activity peddling within the limits of the town is prohibited.
2. No person shall offer Off Premise Sales of any goods in the town except from a business duly permitted pursuant to the applicable town ordinance.
3. No itinerant merchant/peddler shall conduct any business sale, or offer to conduct any business sale, from any public road, other public thoroughfare, public beach, sidewalk, parking lot, or any other public property whatsoever, unless permitted.

('85 Code, § 3-8.1) (Ord. 30, passed - - ) Penalty, see § 112.99

## § 112.03 EXEMPTIONS

1. FOR CHARITABLE OR RELIGIOUS PURPOSES.
  - a. This chapter shall not apply to any activities which may fall within the above definition which are engaged in for the support of any recognized organized religious or charitable purpose.
2. OFF PREMISE SALES. Pushcarts Only
  - a. Public Trust areas of the corporate limits of the Town as defined 112.06

§ 112.04 PERMITS FOR OFF PREMISE SALES. required for selling of merchandise outside of the established business as defined under 112.01.

## § 112.05 SPECIFIC REGULATIONS FOR OFF PREMISE SALES ON PUBLIC BEACH

1. No business as licensed for off premise sales shall conduct business within the town without first having obtained the appropriate permit from the town and paid associated fees as listed in the Town of Holden Beach Fee Schedule, as such may be amended from time to time. Off Premise Sales are not required to obtain a business license.
2. The permit will allow merchants, to retail their merchandise provided that no sales of merchandise shall be permitted between the hours of 6:00 p.m. and 10:00 a.m. Between the hours of 6:00 p.m. and 10:00 a.m., all merchandise offered for sale shall be removed from the Public Trust area or such merchandise shall be stored and properly secured within a fully enclosed structure or vehicle used in conjunction with the operation. Off Premise Sales by merchants must renew permit annually.
3. The permit shall be valid from April 1<sup>st</sup> through November 1<sup>st</sup>. The maximum number of Off Premise Permits are limited to one per established merchant as approved and allowed under ordinance.
4. Each permit will allow for up to five pushcarts and a copy of the permit must be displayed prominently in a conspicuous place, to be immediately identified by personnel for enforcement.
5. A pushcart shall be designed for retail sales and mounted on at least two wheels that have a diameter of not less than eight inches. A pushcart shall be no larger than 5½ feet in width, ten feet in length and eight feet in overall height; shall not be propelled by an internal combustion engine, electric motor, or other similar mechanical device; and when fully loaded with merchandise, shall be movable by one person. Any canopy or umbrella shall not overhang the pushcart by more than two feet. Pushcarts may include a cooking apparatus or grill top for the heating of pre-cooked foods only, in accordance with this section and state regulations. Pushcarts shall have no features which would be a nuisance or hazardous to public safety.
6. No pushcart shall remain in the same location for longer than one hour during a 24- hour period.

## § 112.05 LIABILITY OF INSURANCE

A. By applying for a pushcart permit, any person or entity owning or operating such use agrees to indemnify, defend, save, and hold harmless the town, its officers, agents, and employees from all claims, liability, lawsuits, damages and causes of action which may rise out of such activity. The owner or operator shall acquire and keep in full force and effect, at its own expense, insurance in the following amounts and types: The owner or operator shall provide proof upon application for permit of insurance. Commercial general liability in the amount of at least \$1 million per occurrence for bodily injury and property damage. The Town shall be named as an additional insured on the policy and an endorsement shall be issued as part of the policy evidencing compliance with this requirement. The town shall receive at least 30 days written notice prior to any cancellation, non-renewal or material change in the coverage provided.

Any person or entity operating a pushcart shall provide and must have approved by the Town Planning Director, an original certificate of insurance as evidence that the above requirements have been met prior to the initiation of the pushcart operation. Failure to comply with all these requirements shall cause a suspension or revocation of all pushcart activities. The insurance shall be in effect for the duration of the permit.

§ 112.06 PERMITS FOR OFF PREMISE SALES

1. The Planning and Inspections Department is authorized to issue permits for Off Premise Sales of plants, fruits, vegetables, beverages, hotdogs, and other pre-cooked and pre-packaged foods including hamburgers, sandwiches, ice cream and snack type edibles, from pushcarts on Public Trust Land seaward of all vegetation and dunes stretching from the Lockwood Folly River Inlet to the Shallotte River Inlet as defined by the corporate limits of the town. Vendors shall comply with state, county and municipal health laws and ordinances. Cooking of raw food shall not be allowed on pushcarts; however, the heating of pre-cooked foods shall be allowed. Alcoholic beverages shall not be sold from a pushcart. A sale to any person in or on a vehicle is prohibited.

§ 112.07 VIOLATIONS OF PERMIT

1. Permits can be revoked by the Town's Planning Department for any departure from the conditions of the permit, any fines as established for this section will automatically apply.

112.08 APPEALS

1. Appeals from the decision to deny, revoke or place conditions on the permit shall be to the Board of Commissioners, the appeal should be filed within ten days with the Town Clerk.

§ 112.99 PENALTY.

(A) Criminal. Any person who violates any provision of this chapter shall be subject to a penalty as provided in § 10.99(A) of this code of ordinances.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter shall be subject to a civil fine of \$50 per offense.

('85 Code, § 3-8.4) (Ord. 30 passed - - ; Am. Ord. 93-11, passed 9-7-93)

**Section Two:** The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

**Section Three:** This ordinance shall be effective the 1<sup>st</sup> day of August, 2022.

This the 19<sup>th</sup> day of July, 2022.

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J. Alan Holden, Mayor

ATTEST:

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Heather Finnell, Town Clerk