

# **Chapter 5**

## **BUSINESSES**

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## **BUSINESSES**

### **ARTICLE 1. General Licensing Provisions**

#### Section. 5-1. License required; application

Any person required by the provisions of this Chapter to obtain from the City a license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege, shall make written application therefor over his signature to the clerk upon forms provided by him and shall state such facts as may be required. Applications shall be accompanied by the required fee which will be returned if the license applied for is not issued. (License Ord. § 1, 4/6/49)

#### Section 5-2. Clerk's duty.

(a) As agent of the council, the Clerk is authorized and directed to receive all applications required by this Chapter, and act thereon with reasonable promptness consistent with the nature of the matter, by either:

1. Issuing the license as applied for, subject to limitations on his authority as contained herein; or
2. Denying the license and so notifying the applicant personally or in writing addressed to his address as shown in the application, such notice to state the reason for such denial. (License Ord. §2, 4/6/49)

#### Section 5-3. Limitation on Clerk's authority.

(a) The authority of the Clerk to issue licenses is hereby limited as follows:

1. The clerk acts as agent of the Council.
2. Anything in this Chapter to the contrary notwithstanding sole power to grant or to deny licenses.

(b) Certifications by officials and any other restriction in this Chapter are standards set up for the direction of, and limitations placed upon the authority of the Clerk in the exercise of his powers granted herein as agent of the council, and are not to be construed as limitations on or as delegations of power by the Council. (License Ord. §3, 4/6/49)

#### Section 5-4. Bonds.

Where the provisions of this Chapter require that the applicant furnish a bond, such bond shall be furnished in the required amount and be approved by the City Manager as to financial sufficiency, unless the approval of the council is specifically

required by law prior to acceptance by the Clerk. The City Solicitor in his discretion, is authorized to accept or to require one or more insurance policies as a substitute for or supplement to any required bond when he considers such to be necessary to protect the interests of the City. (License Ord. §7, 4/6/49)

#### Section 5-5. Certification procedure.

In all cases where the certification of any City official is required as a condition precedent to issuance of any license by the Clerk, he shall notify promptly such officer and shall not issue such license until and unless all required certifications are received, as evidenced by signature on the application. (License Ord. §4, 4/6/49)

#### Section 5-6. To whom certificates issued.

No license shall be issued to partnerships or to persons engaged in business as sole proprietors under any name, style or designation other than their own name, exclusively, unless and until such partnership and sole proprietors have filed certificates in the office of the Clerk (License Ord. §5, 4/6/49)

#### Section 5-7. Requirements for certain certifications.

(a) In all cases where certification by any of the following City officials is required as a condition precedent to issuance of a license by the Clerk, such certifications shall be based upon actual inspection within twenty (20) days after notification by the Clerk, and findings as follows:

1. Fire Chief: That the premises comply with all applicable State laws and local ordinances, including but not limited to fire protection.

2. Health Officer: that the applicant and the premises in which he proposes to conduct the trade, profession, business or privilege comply with all applicable State laws and local ordinances relative to health and sanitation, including but not limited to health, plumbing and sanitation ordinances.

3. Police Chief: that the applicant is of good moral character and that the safety and good order will not be affected adversely. (Licenses Ord. §8, 4/6/49)

#### Section 5-8. Appeals to Council.

Whenever the Clerk refuses or neglects to issue a license as applied for, such refusal may be made, the subject of an appeal to the Council by the applicant if written notice of such appeal addressed to the Clerk is received by him within ten (10) days of the date of his written notice of refusal to issue. The Council shall consider such an appeal at its first regular meeting thereafter, or at an earlier special meeting at its discretion. (License Ord. §6, 4/6/49)

#### Section 5-9. Effective date of licenses.

The effective date of all licenses shall be the actual date of issuance thereof by the Clerk, except where the licenses are issued for a fixed period of time. (License Ord. §9, 4/6/49)

#### Section 5-10. Display of License.

Any person to whom a license has been issued shall keep the license exhibited at all times in a conspicuous place in the place of business for which the license was granted if the business is carried on at a fixed place of business; otherwise he shall carry such license on his person when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license is granted. Any person receiving a license shall produce the license for examination when so requested by any city official. (License Ord. §10, 4/6/49)

#### Section 5-11. Insurance

(a) When policies of insurance are required, such policies shall be approved as to substance and form, by the City Solicitor. Such policies shall be issued by insurance companies duly admitted to transact business in Maine and public liability policies shall be at least in the following amounts:

(1) Bodily injury liability limits of Fifty Thousand Dollars (\$50,000) for one person and Fifty Thousand Dollars (\$50,000) for any number of persons in the same accident;

(2) Property damage liability limit in the amount of Fifty Thousand Dollars (\$50,000). (License Ord. §12, 4/6/49; Ord. 92-3, 3/25/92)

#### Section 5-12. Suspension or revocation of license; hearing.

(a) Any license issued may be suspended or revoked by the Council for cause. The person to whom such license was issued shall have the right to a hearing before the Council on any such action, provided a written request therefore is filed with the Clerk within ten (10) days after receipt of notice of such suspension or revocation. The action taken by the Council after such hearing, shall be final. No refund of any part of a license shall be made in connection with the suspension or revocation of any license for cause.

(b) As used in this Section, *Cause* shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license is granted under the provisions of this ordinance, or any premises or facilities in connection therewith, which act, omission or condition is:

1. Contrary to the health, morals, safety or welfare of the public;
2. Unlawful, or fraudulent in nature;
3. Unauthorized or beyond the scope of the license granted;



4. Forbidden by the provisions of Federal or State laws or City ordinance, or any duly established rule or regulation of the City applicable to the trade or profession for which the license has been granted; or

5. The result or failure to comply continuously with all conditions required as precedent to the approval of the license.

Section 5-13. Term of License.

All licenses shall expire on the first day of May after date of issuance, except where the required fee indicates a lesser period, and except when otherwise provided by law. (License Ord. §15, 4/6/49)

Section 5-14. Transferability of License.

No license issued under this Chapter shall be transferable unless specifically authorized by the provisions of this Chapter or by the action of the Council. (License Ord. §16, 4/6/49)

Section 5-15. Enforcement.

It shall be the duty of the Police Chief to require prompt compliance with the provisions of this Chapter, and to prosecute all violators thereof. (License Ord. §17, 4/6/49)

Section 5-16. Penalty.

Unless otherwise specifically provided by law, the penalty for failure to obtain a license, as and when required by this Chapter or for operating after a license has been suspended or revoked, shall be not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for each separate offense. Each day's violation of any provisions of this Chapter shall constitute a separate offense. (License Ord. §18, 4/6/49; as amended)

Section 5-17. License Fee Schedule.

The various classifications of business licenses and fees corresponding to those classifications shall be set by the City Council of the City of Bath by resolutions. The City Council shall have the further power to adjust the fees and classification by resolutions, as from time to time may be necessary or appropriate. (Ord. 7/6/2022)

The following schedule of license fees is hereby made effective:

<b>LICENSE</b>	<b>FEE</b>
<b>BOWLING ALLEYS</b>	<b>\$ 25.00 per year</b>
<b>CARNIVAL</b>	<b>\$ 100.00 per day</b>

<b>CIRCUS</b>	<b>\$ 100.00 per day</b>
<b>DANCES</b>	<b>\$ 25.00 per year</b>
<b>EMPLOYMENT AGENCY</b>	<b>\$ 50.00 per year</b>
<b>EXHIBITIONS OR SHOWS</b>	<b>\$ 50.00 per year \$ 15.00 per day</b>
<b>GASOLINE STORAGE, ETC.</b>	<b>\$ 25.00 per year</b>
<b>JUNK DEALER OR COLLECTOR</b>	<b>\$ 25.00 per year</b>
<b>LODGING HOUSE</b>	<b>NONE</b>
<b>PAWNBROKER</b>	<b>\$ 100.00 per year</b>
<b>PIN BALL AND GAMING MACHINES (PER MACHINE)</b>	<b>\$ 35.00 per year</b>
<b>PIN BALL ROOM (PREMISE)</b>	<b>NONE</b>
<b>POOL ROOM (PREMISE)</b>	<b>\$ 35.00 per year</b>
<b>ROLLER SKATING RINK</b>	<b>\$ 25.00 per year</b>
<b>SECOND HAND MERCHANTS</b>	<b>\$ 100.00 per year</b>
<b>SHOOTING GALLERIES</b>	<b>\$ 25.00 per year</b>
<b>TAXI CAB</b>	<b>\$ 100.00 per year</b>
<b>THEATER OR MOTION PICTURE HOUSE</b>	<b>\$ 100.00 per year</b>
<b>TRANSIENT SELLERS OF CONSUMER GOODS (includes Hawkers, Peddlers, Itinerant Vendors and Solicitors)</b>	<b>\$ 35.00 per year</b>
<b>VICTUALER</b>	
<b>Restaurant</b>	<b>\$ 100.00</b>
<b>Caterer</b>	<b>\$ 50.00</b>
<b>Mobile Food Service Unit (per unit)</b>	<b>\$ 50.00</b>
<b>Special Food Handler (preparation of food to be taken off premises)</b>	<b>\$ 50.00</b>
<b>Non-profit Organization</b>	<b>No Charge</b>

(b) All license fees are annual, except as otherwise provided. Where the amount of the fee shown in the schedule is for a year, month, or day, there shall be no lesser charge for a part of year, month or day. No fee shall be charged for licenses required for events sponsored by the Regional School Unit 1 (Ord. 3/31/82)

## **ARTICLE 2. AMUSEMENT AND ENTERTAINMENT**

Section 5-19. Bowling Alleys and pool rooms.

No person shall conduct, maintain or operate any place open to the public for

bowling or for playing pool or billiards (except those operated by the Municipal Recreation Commission), without first obtaining a license. No such license shall be granted except upon certification of the Police Chief, Fire Chief, and Health officer. Such establishment shall not operate and shall be closed to the public between midnight and sunrise. A licensee shall furnish a ten thousand dollars (\$10,000.00) surety bond. (License Ord. §20, 4/6/49)

#### Section 5-19. Exhibitions, performances and shows.<sup>1</sup>

(a) No person shall conduct or operate any exhibition, performance or show at which an admission fee is charged without first obtaining a license therefore. No such license shall be granted except upon certification of the Police Chief, the Fire Chief and the Health Officer.

(b) Either the Fire Chief or the Police Chief, or both, may condition their certificate of approval upon the presence of one or more members of their respective departments or some person satisfactory to and under the direction of the Fire Chief or Police Chief, in which event, such expenses shall be reported to the Clerk as a part of the certificate and collected by the Clerk prior to the issuance of a license.

(c) No fee shall be charged for events conducted by local governmental or school authorities or organizations nor by local nonprofit organizations. (License Ord. §23 4/6/49)

#### Section 5-20. Merry-go-rounds.

No person shall operate or run a merry-go-round in this city without first obtaining a license therefore. The license shall not exempt the operator from complaint to the Superior Court for maintaining a nuisance. No such license shall be issued except with certification of the Police Chief and the Fire Chief. (License Ord. §29, 4/6/49)

#### Section 5-21. Motion picture houses and theaters.

No person shall operate a motion picture or a theater without first obtaining a license therefore. No such license shall be granted except on certification of the Police Chief, Fire Chief and Health officer. The payment of a motion picture house or theater license fee shall be considered total payment for all licenses and permits required of the motion picture house or theater under this article. (License Ord. §30 4/6/49)

#### Section 5-22. Public dances.<sup>2</sup>

(a) No person shall conduct a public dance without first obtaining a license. In no event shall any such license be granted except upon certification of the Police Chief, the Fire Chief, and the Health Officer.

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<sup>1</sup>State law references - Public exhibitions 8 MRSA (1964) § 501 et seq; theaters and shows, 8 MRSA (1964) §651 et seq.

<sup>2</sup> State law reference - Dances, 8 MRSA (1964) §161 et seq.

(b) No dancing shall be permitted at any public dance later than 1:00 a.m. without prior consent of the Police Chief.

(c) No person shall conduct any public dance at which minors are admitted without providing at his expense the services of a Special Police officer, selected by and under the direction of the Police Chief.

(d) This section, with reference to the license required, does not apply to dances conducted by local government or school authorities or organizations nor to dances given by any local non-profit organizations.

(e) Any such license issued hereunder may be suspended by the Chief of Police, or his designee, for good cause as defined in Section 5-12(b) for a period not to exceed fifteen (15) days. This suspension shall be for the purpose of providing the Council an opportunity to act pursuant to the provisions of Section 5-12(a). (License Ord. §21, 4/6/49; Ord. No. 87-3, 3/4/87)

Section 5-23. Roller skating rinks.<sup>3</sup>

Every person who operates a roller skating rink or room shall obtain a license therefore. No such license shall be issued without the certification of the Police Chief, the Fire Chief and the Health Officer (License Ord. §42, 4/6/49)

Section 5-24. Shooting galleries.

No person shall conduct, maintain or operate any shooting gallery which is open to the public without first obtaining a license. No such license shall be granted except upon certification of the Police Chief, the Fire Chief and the Health officer. Every person so licensed shall, at the time he received his licenses, give bond to the City in the sum of Ten Thousand Dollars (\$10,000.00). (License Ord. §44, 4/6/49)

### **ARTICLE 3. AUCTIONEERS**

Section 5-25. License required.

No person shall engage in the trade or business of Auctioneer in the City without first obtaining a City license therefore. Any applicant for an Auctioneer's license, who is a legal voter of the City, shall apply for his license to the City. Such license shall authorize the applicant to be an Auctioneer in the City and every town in Sagadahoc County, Maine, as provided by Title 32 Chapter 5 of the Maine Revised Statutes (1964). (License Ord. §19, 4/6/49)

Section 5-26 through Section 5-27. Reserved.

### **ARTICLE 4. JUNK DEALERS AND COLLECTORS<sup>4</sup>**

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<sup>3</sup>State law reference: As to roller skating rinks, see 8 MRSA (1964) §601 et seq.

Section 5-28. Definitions.

(1) *Junk* shall mean old iron, chain, brass, copper, tin, lead, or other base metals, old rope, old rags, wastepaper, paper clippings, scraps of woolens, clips, bagging, rubber and glass and empty bottles of different kinds, where less than one gross and all articles discarded or no longer used as a manufactured article composed of one or more of the materials mentioned.

(2) *Junk Collector* shall mean every person who does not maintain or conduct a junk shop or yard in the City, but who on his own behalf, or as an employee or agent of any junk dealer, buys, sells, exchanges, collects, received or handles junk, as hereinafter defined.

(3) *Junk Dealer* shall be deemed to mean those persons dealing in junk who have a fixed place of business or storage in the city. (License Ord. §27, 4/6/49; as amended 6/1/49)

Section 5-29. License required.

(a) No person shall engage in the business of junk dealer or junk collector without first obtaining a licenses therefore.

(b) A junk dealers licenses shall be issued only after certification of the Police Chief, Fire Chief and Health officer.

(c) A junk collectors licenses shall be issued only after certification of the Chief of Police. (License Ord. §27 4/6/49; as amended 6/1/49)

Section 5-30. Separate places of business; inspections.

(a) A license is required for each place or premises where the business or any part thereof (including storage) is conducted. No licenses shall engage in the business, in any manner, at any place, without first obtaining a license for each particular place.

(b) The Police Chief and Fire Chief shall be responsible for inspection of all junk yards periodically, and shall report immediately to the City Manager, who in turn shall report to the Council any violation of the above license conditions. (License Ord. §27, 4/6/49; as amended 6/1/49)

Section 5-31. Records required; filing copy with Police.

Every licensee shall make a duplicate copy or record of all articles purchased or otherwise acquired by such licensee, with date, name and residence of seller, and a description of each article sufficiently accurate to identify it. The licensee shall file the duplicate copies thereof in the office of the Chief of Police by 10:00 a,m, of the Saturday following the date of such record. Provided that no record shall be required of scrap iron, bones, waste paper, old rags, old rubbers, bottles and worn out and cast off clothing. (License Ord. §27, 4/6/49; as amended 6/1/49)

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<sup>4</sup> State law reference: As to automobile junk yards, see 30 MRSA (1964) §2501 et seq.

## Section 5-32. Screening.

All buildings, lots or places where junk is placed or kept shall be completely screened from view from any public street by a fire proof fence, screen or building, and no junk shall be placed so it is visible from any public street. (License Ord. §27, 4/6/49; as amended 6/1/49)

## Section 5-33. Restrictions on purchase of goods.

- (a) No licensee shall purchase or receive any article:
- (1) Between the hours of 7:00 p.m. and 7:00 a.m.
  - (2) On any Sabbath;
  - (3) From any person under the age of seventeen (17) years, without the consent of parent or guardian; or
  - (4) From a person known or suspected to be a thief or receiver of stolen property.

(License Ord. §27, 4/6/49; as amended 6/1/49)

## Section 5-34. Holding period before articles may be sold.

Every licensee hereunder shall retain possession of all articles for which a record is herein required for a period of one week from the date of filing the record thereof in the Office of the Chief of Police, during which period the articles shall be subject to identification and inspection by the Chief of Police or any officers of the Police Department. The licensee shall produce and identify any such article upon request of the Chief of Police or any officer of the Police Department. This Section may be waived by the Chief of Police in certain justifiable cases where its enforcement would create a hardship and hinder normal business transactions. (License Ord. §27, 4/6/49; as amended 6/1/49)

## **ARTICLE 5. PIN BALL AND GAMING MACHINES<sup>5</sup>**

### Section 5-35. Definitions.

- (a) As used in this Article:

(1) *Gaming machine* shall mean any mechanical or electrical machines which upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score, and which is operated for amusement only and does not dispense any form of pay off, prize or reward. This definition shall not include machines providing music. Gaming machines shall include any video machine or device which depicts a visual image for use by the general public, whether said machine is operated by the insertion of a coin, slug, token, plate or disc, or is operated by a third party upon receipt of a fee or payment.

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<sup>5</sup>State law reference: As to pin balls and gaming machines, see 8 MRSA (1964), §441 et seq.

(2) *Pin ball machine* shall mean any ball machine which upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for us as game, entertainment or amusement, whether or not registering a score, and which is operated for amusement only and does not dispense any form of pay off, prize, or reward. This definition shall not include machines providing music. (Ord. 9/7/55 §2)

Section 5-36. License required.

No person shall keep for public patronage, or permit or allow the operation of any pin ball or gaming machine, in or on any premises or location under his charge, control or custody without having first obtained a license therefore from the Clerk. (Ord. 9/7/55 § 1)

Section 5-37. License fee; issuance; minimum age; investigations.

(a) The license herein required shall be obtained from the Clerk upon the payment of an annual fee for each machine kept in or on the premises or location and shall expire on April 30 of each year. The application for such license shall be made to the Clerk upon a form supplied by him for that purpose and shall contain such information as he may require.

(b) No such license shall be granted to any person under the age of twenty-one (21) nor to any firm, corporation or association whose officers are under such age. No such license shall be granted by the clerk unless such application shall be first approved by the Chief of Police of the City in writing, and such approval attached to or made a part of the application. (Ord. 9/7/55 §3)

Section 5-38. Transferability.

The license required by this Article shall not be transferable to any other person or from location to location, and shall be valid only at the location and for the person designated therein. (Ord. 9-7-55, §5.)

Section 5-39. Repealed.

Section 5-40. Gambling not authorized.<sup>6</sup>

Nothing in this Article shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been by the courts determined to be a gambling device or in any way contrary to law. (Ord. 9/7/55 §7)

Section 5-40.1. Obscene Material Prohibited.

(a) No machine as defined in this article shall display obscene material for

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<sup>6</sup>Cross reference: As to gambling generally, see Article 4 of Chapter 10 of this Code.

viewing by the public. For the purposes of this subsection, "obscene material" shall mean any material which:

1. To the average individual applying contemporary community standards, considered as a whole, appeals to prurient interests.
2. Depicts or describes, in a patently offensive manner, ultimate sexual acts, masturbation, or lewd exhibition of the genitals; and
3. Considered as a whole, lacks serious artistic, political or scientific value.

Section 5-41. Revocation of license; appeals.

(a) Any license issued under this Article may be revoked by the Clerk:

1. When it has been made to appear to the Clerk that there has been a violation of any of the terms of this Article;
2. When it has been made to appear to the Clerk that the licensee himself or any of the officers of the firm, corporation or association are not proper persons to hold such a license; or
3. When it has been made to appear to the Clerk that the premises for which the license was granted is not a suitable location for such licensed activity.

The licensee shall have the right to appeal, in writing, such revocation at the next regular meeting of the Council thereafter which, after hearing, may affirm, modify or repeal the decision of the Clerk. Failure of the licensee to appeal at the next regular meeting shall be deemed to constitute a waiver of the right of appeal and shall constitute an affirmation of the revocation. (Ord. 9/7/55, §8.)

## **ARTICLE 6. TAXICABS (Ord.11/7/2001, 7/3/2024)**

Section 5-42. Authority and Applicability.

A. Authority. This Ordinance is enacted under the General Home Rule Powers granted to municipalities under the Constitution of the State of Maine, Article VIII, Part Second, and under Title 30-A M.R.S.A. Subpart 2, Chapter 111. It is enacted by the municipal officers under the specific authority of 30-A M.R.S.A. Section 3009(1)(F).

B. Applicability. This Ordinance is intended to apply to all transportation of passengers for hire for trips for an initiation point and/or termination point within the City of Bath and shall not apply to the transportation of passengers for hire under the following circumstances:



(1) A motor vehicle licensed by another municipality to operate as a taxicab or other vehicle for hire which may be operated within the City of Bath in response to a call to convey a passenger(s) from the City to another municipality or a request to convey a passenger(s) from such other municipality to the City, provided the vehicle is licensed for hire in that municipality;

(2) Any vehicle used for the transportation of passengers for hire which meets all of the following requirements:

(a) a vehicle is equipped with a ramp or lift mechanism designated to accomplish wheelchair access;

(b) the vehicle at all times when used for hire is transporting one or more handicapped persons. All persons within the vehicle need not be handicapped provided they are accompanied by at least one handicapped person;

(c) the vehicle is operated for hire only by prearrangement.

Any vehicle operated for hire, although designated for handicapped use, when not so used, shall be subject to the provisions of this Article.

#### Section 5-43. Definitions. (Ord. 9/3/08)

Disqualifying Criminal Conviction. Shall mean and include any conviction for any criminal offense punishable by imprisonment for any period of time, whether or not the sentence was imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally, or for which a pardon, certificate of rehabilitation, or the equivalent under the law of the sentencing jurisdiction has been granted, or which is not rationally related to the purpose of licensing under this chapter.

Driver. Shall mean the licensed individual who is engaged in driving the taxi for hire.

Owner. Shall mean the person, proprietorship, firm, association, partnership, corporation, limited liability company, or other form of business entity engaged in the business of carrying passengers for hire.

Owner's License. Shall mean the license granted to the owner of the business engaged in carrying passengers for hire.

Taxi or Taxicab. Shall mean and include any motor vehicle used or intended to be used for or engaged in the business of carrying passengers for hire, the destination and route of which are under the direction and control of the passengers and are not operated on a fixed route.

#### Section 5-44. General Provisions.

A. Place of Business; Provision of Service. Owner's licenses under this Article shall maintain a place of business for the purpose of receiving calls and dispatching taxis. No orderly person, upon request, shall be refused or neglected transportation by a driver unless the taxicab is previously engaged or otherwise unable or forbidden by the provisions of this Article to accept such passengers.

B. Number of Passengers. No driver shall exceed the rated seating capacity of his taxicab as stated in the vehicle registration issued by the State of Maine.

C. Additional Passengers. No driver of a taxicab shall carry any person or permit any person to occupy or ride in the taxicab unless the person first employing the taxicab consents to the acceptance of additional passengers.

D. Posting of Rates. A plainly printed card setting forth the rates of fares charged between at least six frequently visited locations in Bath, shall be conspicuously displayed in every taxicab so that it can be seen and read by a passenger. Failure to so display a card, or proof of charging rates more than those posted, shall be grounds for revocation of the license of the owner and/or driver.

E. Code Compliance. The business office of the taxicab operation, the parking and storage of taxicabs, and their maintenance, shall all be accomplished, if within the City of Bath, in compliance with all applicable Bath Codes, specifically included, but not limited to, the City of Bath Land Use Code, Chapter 18, and the City of Bath Code on Vehicles and Traffic, Chapter 17.

F. Personal Belongings. No charge shall be made for the transportation of personal belongings, including bags and parcels, of a passenger.

G. Severability. If any Section, Subsection or portion of this Article shall be declared by a Court of competent jurisdiction to be invalid for any reason, such decision shall not affect the validity of any other Section, Subsection or portion.

#### Section 5-45. License.

A. The license authorized under this Article is an owner's license for the operation of the taxicab business entity.

B. Licenses Required. No person shall operate a taxicab business without first obtaining a license to do so.

C. Issuance of License. All licenses required to be issued under this Article, shall be approved and issued by the City Clerk or their designee.

D. Licenses - Non-Transferable. All licenses issued under this Article shall be particular to the licensed individual or business entity and may not be transferred to any other individual or business entity.

E. Term of License. Each license issued under this Article shall be for the term of one (1) year beginning on July 1<sup>st</sup> of that year and running through June 30<sup>th</sup> of the following year.

F. License Fees. Fees for the issuance of each license required under this Article shall be set by Resolution of the City Council. Fees for licenses for less than the entire year shall be prorated to reflect the remaining portion of the year but shall reflect a minimum processing cost.

#### Section 5-46. Owner's License. (Ord. 9/3/08)

A. Application. Each applicant shall file an annual application to be licensed as a business entity engaged in the taxicab business within the City of Bath. The application shall be on a form provided by the City of Bath and shall contain the following information:

A signed and verified listing of the name, address, telephone number, place of birth, and social security number of each person having an ownership interest in the business entity or having management authority over the operations of the business entity.

A record of any disqualifying criminal conviction of any officer of or person having an actual business ownership in, the applicant, or a statement that no such conviction exists shall be provided.

Business address(es) and telephone number(s).

Contact the person who is responsible for the day-to-day operations of the business, together with address and contact telephone number.

Number of positions anticipated for the license year; number of vehicles anticipated to be employed during the upcoming license year.

An appropriate form or statement over the signature of each owner or manager required to sign the application, giving all persons and governmental agencies having information relative to the applicant, permission to release the same to the City Clerk or their designee.

Such other information as the City Clerk may deem necessary or advisable in order to determine that the standards of issuance of this license have been met in full.

B. Standards for Issuance of Owner License.

If the business entity is other than an individual proprietor, that business entity shall be either organized under the laws of the State of Maine or licensed to do business within the State.

The business entity shall be the registered owner of all vehicles used in the business.

No principal officer or any person having an ownership interest or management authority shall have a disqualifying criminal conviction.

The applicant shall not have had their business license revoked within the last three (3) years preceding the date of application. This shall apply to the business entity for which the license is sought and to any previous business entity or individual proprietorship in which the owner or managing authority has participated.

Any applicant shall meet the insurance requirement set forth in Subparagraph C below.

Any application for license, which does not demonstrate that the applicant has met all the conditions above, shall be denied.

C. Insurance. There shall be filed with each taxicab license application, a certificate of insurance covering the business entity and all vehicles that are to be licensed with at least the following coverage:

Bodily Injury Liability Limits of at least \$100,000.00 Per Person and \$300,000.00 For any Number of Persons in the Same Accident

Property Damage Liability Limit of at least \$50,000.00

All renewal applications shall be accompanied by a certificate of insurance. Failure to keep the required insurance in continuous Effect shall be cause for revocation of the owner's license.

D. Change of Address. When the business licensee, or any owner or managing authority of the business licensee, changes address or where the business address is changed or the place at which a taxicab is garaged, such change of address shall be provided to the City Clerk within twenty-four (24) hours of such change.

E. Drivers. There shall be filed with each taxicab license application, a list of drivers.

Drivers may not:

- 1) Operate a cab with any disqualifying criminal conviction;

2) Operate a cab with a record of convictions for reckless driving, driving to endanger, operating under the influence, or attempting to operate under the influence currently or during the year preceding the application;

3) Operate a cab with a driver's license that is presently revoked or has been revoked during the last three years preceding the application; or knowingly take a longer route to their destination than was necessary unless so requested by the passenger; knowingly conveyed any passenger to a place other than that which the passenger specified; transported any person other than the passenger first engaging the taxicab without the express consent of such passenger; harassed, threatened, or assaulted a passenger; charged more than the set far.

Section 5-47. Reserved.

Section 5-48. Suspension or Revocation.

Suspension or revocation, at the discretion of the City Clerk, may be imposed for the failure of the business to meet any of the conditions precedent to the issuance of that particular license as listed above. In addition, the following acts or omissions may result in the suspension or revocation, at the discretion of the City Clerk, of an owner's license:

Knowingly took a longer route to his or her destination than was necessary unless so requested by the passenger;

Knowingly conveyed any passenger to a place other than that which the passenger specified;

Solicited or caused another person to solicit taxicab passenger business in any manner whatsoever;

Transported any person other than the passenger first engaging the taxicab without the express consent of said first passenger;

Drove a taxicab when not clean and neat in appearance;

Permitted any person other than the driver and a passenger or passengers to remain in the taxicab at any such time, except a trainee, if a licensed taxicab driver;

Refused to transport any orderly person upon request because of that persons race, color, creed, national origin, ancestry, age, sex, religion or handicap status;

Failed to notify the City Clerk of any change of any material fact set forth in the application for such license; or

Removed from a taxicab or obscured or caused to be removed from a taxicab or obscured the notice required by Section 5-44(D).

There have been repeated violations by the driver or drivers which resulted in four (4) or more suspensions of the same driver, or eight (8) or more suspensions by employees of the same person holding more than one (1) taxicab business license, establishing a pattern of conduct by the holder of the taxicab business licenses;

Any drivers, taxicab or taxicabs covered by the taxicab business license have been the subject of one (1) or more violation notices for failure to comply with the standards set forth in this Article.

#### Section 5.49. Taxicabs.

A. List of Vehicles. For each license year the business owner shall submit, with the application for an owner's license, a list of all vehicles being operated by the company or anticipated to be operated by the company for the ensuing license year. This list shall be updated by filing an amended list with the City Clerk at any time that a vehicle is taken out of service or a vehicle is added to service. Any vehicle being added to service shall comply with the requirements of this Section.

#### B. Identification.

(1) Marking. Each taxicab and vehicle used for hire shall have a design, logo, monogram, or lettering, containing the owner's name or trade name and the word "taxi", "taxicab" or "cab", permanently affixed to one door on each side of the taxicab. Such design, logo, monogram, or lettering, shall not be less than eight (8) inches in diameter or height.

(2) Lights. Each taxicab or motor vehicle for hire shall be equipped with an exterior light affixed to the roof of the vehicle covered with a translucent fixture marked with the word "taxi", "taxicab", or "cab" in legible lettering and shall be operated during the period between sunset and sunrise.

(3) Flashing Lights. No taxicab shall be equipped with any so-called "flasher" light.

C. Vehicle Standards. Every vehicle used as a taxicab shall meet on an ongoing basis the following standards:

(1) The vehicle shall have a valid State Certificate of Registration.

(2) The vehicle shall have a valid State Inspection Sticker.

(3) The vehicle shall always be in compliance with the laws of the State of Maine relating to passenger vehicles and the rules and regulations of

the State Commissioner of the Department of Transportation enacted pursuant thereto.

(4) The vehicle shall have the proper identifying markings and light required in Subsection C above.

(5) The vehicle shall be in clean and sanitary condition and in good repair. This term shall mean and include without limitation, the following:

No dents larger than six (6) inches in diameter;

No loose trash or large amounts of dirt or sand in the interior passenger area, whether or not the area is currently occupied by a passenger;

No missing body work, no visible primer paint, no rust greater than one inch in diameter;

No cracks in windshield or windows;

Seat belts for all passenger seats visible and in working order;

All doors, including front area hatch, shall open and close normally;

The dome light and all interior lighting will be in working order .

Section 5-50. Appeals.

A. Any person or business entity aggrieved by a decision of the City Clerk or their designee in the administration of this Article, may appeal that decision within ten (10) days of the date of receipt of the decision by filing an appeal in writing with the City Manager. The appeal shall state the decision appealed from and the basis upon which the appellant disagrees with the determination by the City Clerk or their designee. The City Manager, if requested, shall hold a hearing with the appellant to determine the appeal within fifteen (15) days of receipt of the notice of appeal.

B. All appeals from any determination by the City Manager pursuant to Subsection A above, shall be pursuant to Rule 80B of the Maine Rules of Civil Procedure.

## **ARTICLE 7. WOOD AND BARK SALES**

**Sections 5-59 through 5-64. Reserved**

## **ARTICLE 8. RESERVED**

**Sections 5-65 through 5-86. Reserved**

## **ARTICLE 9. SPECIAL BUSINESS REGULATIONS.**

Section 5-87. Employment agency.

(a) No person shall operate an employment agency for profit or remuneration without first obtaining a license therefore. No such license shall be granted, except upon certification of the Police Chief.

(b) A licensee shall furnish a bond, which shall have a surety a duly authorized surety company or two (2) individuals to be in such amount and form as required by Section 30-2651 et seq. of the Maine Revised Statutes (1964). (License Ord. §22, 4/6/49)

#### Section 5-88. Gasoline and flammable liquids.

(a) No persons shall store, or keep for sale or use more than ten (10) gallons of gasoline, naphtha or other flammable liquids (except in the tank of a motor vehicle or motor boat and except fuel oil and kerosene stored for heating purposes by the ultimate consumer) without first obtaining a licenses therefore. No such license shall be granted except on certification of the Fire Chief.

(b) The handling and storage of such gasoline, naphtha or other flammable liquids shall be in conformity with the statutes and the rules and regulations of the insurance Department of the State of Maine as promulgated under the authority of State law. (License Ord. §24, 4/6/49; as amended)

#### Section 5-89. Hawkers and Peddlers.

No person shall engage in the business of hawking or peddling of goods, wares and merchandise at retail within the City limits without first obtaining a license therefore. No such license shall be granted except upon certification of the Police Chief. This Section shall not apply to commercial agents or other persons selling samples, lists, catalogues or otherwise, goods, wares or merchandise for future delivery, to persons selling fish, or to persons selling farm, dairy or orchards products of their own production, to persons selling bark, wood or forest products, to persons selling newspapers or religious literature, or to persons selling Christmas trees, Christmas wreaths, Christmas greens or Christmas cards or seals. (License Ord. §25, 4/6/49)

#### Section 5-90. Itinerant vendors.

(a) Itinerant Vendor for the purpose of this Section, shall mean and include all non-resident persons, both principals and agents, who engage in a temporary or transient business in the City, and such business in the City, and who, for the purpose of carrying on such business, hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and merchandise, or who sell goods, wares and merchandise at retail from a car, wagon or other conveyance.

(b) No person shall engage in the business of an "itinerant vendor" without first applying for a license to an making payment therefore, to the Collector of Taxes. No such license shall be granted without filing the required State



License with the Collector of Taxes nor shall license be granted except upon the certification of the Police Chief and Fire Chief.

(c) No itinerant vendor shall be relieved or exempted from the provisions and requirements hereof by reason of associating himself temporarily with any local dealer, trader or merchant, or by conducting such temporary or transient business in connection with or as a part of the business of, or in the name of any local dealer, trader or merchant. The license fee shall be computed as required in Section 30-4602 of the Maine Revised Statutes (1964).

(d) This Section shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, nor to hawkers or peddlers on the street or peddlers from vehicles, all as provided by Title 32, Chapter 69 of the Maine Revised Statutes of 1964.  
(License Ord. § 26, 4/6/49)

Section 5-91. Lodging houses and innkeepers.

(a) No person shall operate an inn or lodging house of ten (10) lodging rooms or more, without first obtaining a license therefore. As provided by State law, there shall be no charge for such license, but such license shall not be granted except on the certification of the Police Chief, Fire Chief and Health Officer.

(b) The lodging house and innkeepers license shall expire on the first Monday in May of each year.

(Licensing Ord. §28, 4/6/4-9.)

Section 5-92. Transporting property or goods for hire.

No person shall engage in the trade or business of operating any vehicle for the purpose of transporting or moving any property or goods, for hire or reward, whether by contract or otherwise, without first obtaining a license for each vehicle so operated. No such license shall be granted except upon certification of the Police Chief. In case of a refuse or garbage collector, no license shall be granted except upon certification of the Health Officer in addition to the Police Chief, and such license shall be conditioned upon compliance with any regulatory ordinance governing the handling of garbage and refuse.  
(License Ord. §41, 4/6/49.)

Section 5-93. Pawnbroker and Secondhand Merchants.

(a) No person shall engage in the business of dealing in secondhand or used personal property, or in business of a pawnbroker, without first obtaining a license therefore. No such license shall be granted except upon certification of the Police

Chief and the Fire Chief.

(b) No licensee shall purchase or receive any article from any person under the age of seventeen (17) years, without the written consent of parent or guardian, or from any person known or suspected to be a thief or a receiver of stolen property.

(c) Every licensee shall keep a record of all persons with whom he does business and of all property coming into his possession together with a record of the disposition of each article, which record shall be kept available for examination by any city official. A daily report of such business transactions shall be filed the following day with the Chief of Police. (License Ord. §43, 4/6/49)

#### Section 5-95. Bottle Clubs.

No person, corporation, or other entity shall conduct the business sometimes known as a bottle club wherein alcoholic beverages including beer are consumed on the premises by patrons who supply their own alcoholic beverages and who are charged for mixing drinks or for admission to the premises, after the hour of 1:00 a.m., nor shall such activities be conducted on Sundays. (Ord. 6/20/79)

#### Section 5-96. Adult Business Establishment License (Ord. 10-2-13)

##### A. Authority

This Ordinance is enacted pursuant to the Home Rule Authority of municipalities under the laws of the State of Maine, Title 30-A M.R.S.A. § 3001 and under the authority of the Constitution of the State of Maine, Article VIII, Part 2, Section 1, as well as the general powers of municipalities to enact police power ordinances.

##### B. Findings

There is convincing documented evidence, based on research and studies by municipalities throughout the nation, that adult business establishments, because of their very nature, have negative secondary effects on the areas surrounding these types of business uses, that these types of uses are consistently and strongly associated with perceived decreases in the value of both residential and commercial properties, and that they facilitate illicit and undesirable and, in some cases, criminal activities that are detrimental to the City and to its inhabitants. Such adult business establishments can often be incompatible with surrounding uses particularly where a number of these types of uses are concentrated within a limited geographical area or are located in close proximity to residential, daycare, school, house of worship, public parks or recreational areas, or other similar types of uses. A police power ordinance of this nature is a proper, reasonable and necessary means of controlling the negative secondary effects of such adult business establishments.

##### C. Purpose

The requirements and regulations of this Section are directed to controlling negative secondary effects of adult business establishments and are not intended to address, limit or otherwise curtail protected speech or expression. Therefore, it is the purpose of this Section to provide performance standards and regulations relating to the time,

place and manner of operation of adult business establishments, and to require their annual licensing. It is the further purpose of this Section to prohibit and prevent their location in proximity to other types of uses that are incompatible, including, but not limited to, those uses listed in Sec. B above. These regulations, performance standards and licensing requirements are necessary and appropriate to minimize the negative secondary affects identified in Sec. B above, to protect incompatible uses from exposure to adult business establishment operations, and to prevent concentration of these types of uses in one area or geographical location. It is not the intent of this Section to prohibit adult business establishments from locating in the community or to provide a reasonable opportunity for such uses to exist, but to regulate the impact of the business enterprise in accordance with the provisions of this Section.

#### D. Definitions.

1. "*Adult amusement store.*" An establishment having as a substantial or significant portion of its sales or stock in trade "sexual devices" or films for sale or viewing on premises that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified sexual activities" or "Specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's primary purpose is to purvey such material. A substantial or significant portion means sales constituting twenty-five percent (25%) or more of the gross sales of the business or a display area constituting fifteen percent (15%) or more of the total display area, measured on the basis of floor area.
2. "*Adult motion picture theater.*" An enclosed building used regularly and routinely for presenting motion picture material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified sexual activities" or "Specified anatomical areas," for observation by patrons therein.
3. "*Adult entertainment cabaret.*" A public or private establishment which: features topless dancers, strippers, erotic dancers, including employees; or not infrequently features entertainers who display "Specified anatomical areas"; or features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in explicit simulation of, "Specified sexual activities"; or offers Sadoomasochistic acts or Bondage and discipline to patrons.
4. "*Adult relaxation spa*" or "*adult spa.*" An establishment or place primarily in the business of providing "rub-down" or other pseudo-massage services by a person or persons not licensed or exempt from licensing. This use shall not include any activities licensed by the State of Maine as massage or massage therapy.
5. "*Adult Business Establishment.*" Adult Business Establishments include, but are not limited to, Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, Adult relaxation spas or Adult spas.

6. *"Erotic dance."* A form of dance which seeks, through one or more dancers, to arouse or excite the sexual desire of a patron or patrons.

7. *"Premises"* is defined as the entire building or structure concerned, including all floors, attics, basement areas, and outbuildings, whether or not partitioned into separate rooms or areas.

8. *"Public indecency"* is defined as the knowing or intentional commission of an act of sexual intercourse, a sexual act, sexual contact or nudity in a public place.

9. *"Sadomasochistic acts"* or *"Bondage and discipline."* Flagellation, torture or punishment by or upon a person unclad or clad in undergarments, a mask or costume, or the condition of being fettered, bound or otherwise physically restrained while so clothed or by a person so clothed.

10. *"Sexual device."* A device or object the primary purpose of which is to provide direct sexual stimulation to male or female genitals or anus.

11. *"Specified sexual activities"* means:

the sexual stimulation or arousal of human genitals;

acts of human masturbation, sexual intercourse, or sodomy;

fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

12. *"Specified anatomical areas"* is defined as:

a. Less than completely and opaquely covered:

human genitals, pubic region;

buttocks; or

female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Terms not defined in this Section but otherwise defined in other City Codes, shall have the meaning defined as provided in those Codes. Terms not defined in this Ordinance or other City Codes, shall have their customary , ordinary and usual meaning.

E. License required.

No person shall operate an Adult Business Establishment, nor shall any property owner permit the use of his or her premises to be operated as an Adult Business Establishment without a valid Adult Business License issue by the City. Each License shall be for a period of One (1) year from the date of its issuance. A License must be obtained prior to the opening of an establishment, prior to the expiration of any current annual License in effect, and, for any business establishment currently in operation, within Sixty (60) days of the date of adoption of this Ordinance.

F. Application.

1. An Applicant for an Adult Business Establishment License shall:

Complete and file an application prescribed by and provided by the City.

Deposit with the City Clerk a processing and licensing fee of \$250.00 and an

additional processing fee of \$25.00 per person for each person over four (4) required to be investigated under the provisions of Sec. G. This fee is nonrefundable and must be deposited before the City takes any further action in investigating or processing

the License. The amount of this fee may be determined and adjusted from time to time as costs and expenses may dictate by the City Council.

2. Additional filing requirements:

A description of the form of ownership of the business enterprise together with attested copies of the organizational documents of the business entity (i.e. Articles of Incorporation and By-Laws if a corporation, Partnership Agreement if a partnership, Articles of Association and By-Laws if an Association, LLC Filings and Managing Agreement if an LLC, etc.).

An Affidavit under oath which states the names, contact information, places of residence at the time of application, and for the immediately preceding three (3) years of all owners, stockholders, members, partners, officers, directors, or other owner/participants in the business entity together with all managers and supervisory personnel responsible for the business operation and all employees. The Affidavit shall not be a public record and shall not be available to the public.

Evidence of an interest in the premises in which the Adult Business Establishment will be sited, together with the form of interest, along with the written consent of the owner of the premises for such use if the applicant is not the owner.

A Statement as to the precise nature of the business with a description of the nature of all products and services offered to its customers.

The date of initiation of the business use if in operation at the time of adoption of this Ordinance and application for license.

A Release authorized by 16 M.R.S.A. § 620(6) (Criminal History Record Information Act) for each individual identified in Subsection (b) above.

Evidence of compliance with the requirements of Sec. L through Q and evidence that there is no basis for denial of a License to an applicant under the standards listed in Sec. K.

Any other information that the City Manager or the City Clerk, upon review of the completed application and submissions, may deem necessary in order for the City Council to determine that the applicant complies with all of the regulations and requirements of this Section.

No applicant shall accrue any vested rights regarding the establishment of an Adult Business Establishment until a completed application has been filed with the City Clerk's Office as may be determined by the City Manager with the assistance of the City Clerk and the Codes Enforcement Officer.

G. Investigation of Applicant, Officers Etc.

Upon receipt of an application or of a notice of a change of any of the individuals listed in Sec. F(2)(b) above, the City shall provide copies of a completed application to the following staff members for purposes of conducting the investigations and issuing reports as listed below:

1. The Building Inspector shall verify that the premises at which the establishment will be located complies with all applicable State Codes and ordinances of the City including, but not limited to, the building code, electrical code, and plumbing code and shall report findings in writing to the City Clerk;
2. The Codes Officer shall inspect the location or proposed location to determine whether the applicable ordinances relating to land use issues and building and safety

code issues have been satisfied and shall report findings in writing to the City Clerk;

3. The Health Officer shall inspect the location or proposed location to determine whether all applicable ordinances relating to health and safety have been satisfied and shall report findings in writing to the City Clerk;

4. The Fire Chief or his/her agent shall inspect the location or proposed location to determine if all City ordinances concerning fire and safety have been satisfied and shall report findings in writing to the City Clerk;

5. The Police Chief or his/her agent shall investigate the application and conduct a background check for all of those individuals listed in the Affidavit required under Sec. F(2)(b) and shall report findings in writing to the City Clerk.

#### H. Action on Application.

1. Public Hearing. The City Clerk upon receipt of a completed application and upon receipt of the findings of the reports required under Sec. G above, shall schedule a public hearing at a regular or special meeting of the City Council and shall arrange for public notice of the public hearing to appear in a newspaper of general circulation within the City of Bath at least Ten (10) days prior to the date of the scheduled public hearing. Costs of the hearing notice shall be paid out of the License and processing fee submitted by the applicant with the application and supporting documents.

2. Council Action. The City Council, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Section. The License shall be issued upon determination by the City Council, based upon required application submissions, other documents of record, staff reports, and evidence and testimony presented at the public hearing, that the application meets the requirements of this Section.

#### I. Status of License.

Any License issued under this Section or any renewal thereof, may not be transferred or assigned to any individual or business entity other than the party originally licensed.

#### J. Duty to update information.

Any licensee issued a License under this Section, shall have the ongoing duty to maintain updated and accurate information regarding all of the information provided under the application process and as indicated in Sec. F. Such information shall be updated within Ten (10) days of any change of status. Failure to do so may result in revocation of the applicant's license.

#### K. Standards for denial.

An application for an Adult Business Establishment License may be denied by the Council under any of the following circumstances:

the applicant is a corporation not licensed to do business in the State of Maine;

the applicant is an individual who has been convicted of any crime in the ten years immediately preceding the application;

the applicant is a business entity and any person having an ownership interest, or any

person having management authority over the business entity has been convicted of any crime in the Ten (10) years immediately preceding the application;  
the applicant is an individual who is less than 18 years of age;  
the applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the City Clerk, City Manager or Council, that is reasonably necessary to determine whether the license is issuable;  
the applicant, if an individual, or any person having an ownership or management interest, if a business entity, has been denied an Adult Business License for knowingly making an incorrect statement of a material nature within the immediately preceding ten years;  
the applicant, if an individual, or any person having an ownership or management interest, if a business entity, has had a License granted pursuant to this Section or a similar ordinance provision in any other municipality, permanently revoked or suspended for one (1) year or more, for any reason during the immediately preceding ten years;  
the site on which the Adult Business Establishment is proposed is a prohibited site under Sec. O;  
if the application in any other way fails to meet the requirements in this Section.

#### L. Standards for suspension, revocation.

Any Adult Business Establishment License may be suspended or revoked by the Council, after hearing, under any of the following circumstances:

the licensee fails to notify the City Clerk of any change in material fact set forth in the application for such license;

the licensee violates any provision of this Section;

the licensee is convicted of any crime;

the licensee violates this Section or any other City of Bath Ordinance, or any related ordinances from other municipalities;

any officer or employee of the licensee provides sexual intercourse, a sexual act or sexual contact on the premises of the Licensee, as defined by Maine law, for any direct or indirect payment of money or any other object of value.

#### M. Age restriction.

No Adult Business Establishment may permit any person under the age of 18 years on the premises in which the Adult Business Establishment is located, either as a customer or an employee.

#### N. License, fees, and names of owners or officers to be available on site.

An Adult Business Establishment Licensee must display the Adult Business Establishment License at all times in an open and conspicuous place within the Adult Business Establishment for which the License has been issued. Adult Business Establishment Licensees must also display at all times in an open and conspicuous place in the Adult Business Establishment, a complete list of fees, prices and charges for all food, beverages, goods, wares, merchandise or services offered by the Adult Business Establishment. The list of prices and charges must be written in clearly

visible letters and figures of a size not less than 14 point. The list of names and officers shall be available on site to law enforcement and/or City personnel.

O. Prohibited sites.

1. No Adult Business Establishment may be located or commence operation:
  - a. in land use district other than a CIV District;
2. No Adult Business Establishment may be sited within the distances of the uses specified below:
  - a. within 500 feet of a church, synagogue or other house of religious worship;
  - b. within 500 feet of a public or private elementary, middle or secondary school;
  - c. within 250 feet of a zoning district where residential use is allowed as a primary use;
  - d. within 250 feet of a lot where the primary use is residential;
  - e. within 500 feet of a public park or public or private recreational facility or site;
  - f. within 500 feet of a lot on which another Adult Business Establishment is sited;
  - g. within 500 feet of a lot on which a licensed daycare is sited.

The distances cited in this section shall be measured from the nearest customer entrance of the Adult Business Establishment to the nearest customer entrance of the structure or structures housing the specified uses, measured in a straight line without regard to intervening structures objects. If the use specified above does not involve a structure, then the measurement shall be to the closest point in the property line of the use, to the customer entrance of the adult business use.

3. An Adult Business Establishment which does not comply with the siting requirements in Subsection (1) above, and which is in existence as of the date of the enactment of this Ordinance, may continued in operation at its existing site, if duly licensed under this Ordinance. It shall be considered as a non-conforming use for zoning and land use purposes. No change of the type of adult business use or adult business products may be made and there may be no increase in the area designated for the adult use.

4. An Adult Business Establishment licensed under this Ordinance, and meeting the siting requirements of Subsection (1) above at the time of establishment, shall not be made non-conforming by the establishment of one or more of the uses listed in Subsection 1(b) above within the minimum distances indicated, or if the location of the Adult Business Establishment due to a change in the land use map, is moved to another zoning district.

P. Prohibited activities.



1. All acts of Public indecency, as defined in any City of Bath Ordinances and Title 17-A M.R.S.A. § 854, are prohibited in Adult Business Establishments;
2. Dancers, performers, employees, owners or officers of an Adult Business Establishment shall not fondle or caress any patron or client and patrons and clients shall not fondle or caress dancers, performers, employees, owners or officers of the Adult Business Establishment;
3. Dancers, performers, employees, owners or officers of an Adult Business Establishment while on the premises of the Licensee shall not:
  - a. perform, offer to perform or agree to perform sexual intercourse with each other or any patron or client;
  - b. commit, offer to commit or agree to commit any sexual act with each other or any patron or client; or
  - c. make, offer to make or agree to make sexual contact with each other or any patron or client; and
4. Patrons and clients of Adult Business Establishments while on the premises of the Licensee shall not:
  - a. perform sexual intercourse with any dancers, performers, employees, owners or officers of the Adult Business Establishment; or
  - b. commit any sexual act with any dancers, performers, employees, owners or officers of the Adult business Establishment; or
  - c. make sexual contact with any dancers, performers, employees, owners or officers of the Adult Business Establishment.

#### Q. Physical layout of Adult Business Establishment.

1. Any Adult Business Establishment having available for customers, patrons or members, any booth, room or cubicle for any private viewing of any adult entertainment shall comply with the following requirements.
  - a. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the Adult Business Establishment, and shall be unobstructed by any door, lock or other control-type devices.
  - b. Construction. Every booth, room or cubicle shall meet the following construction requirements:

Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.

Each booth, room or cubicle must have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle.

All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light-colored, nonabsorbent, smooth textured and easily cleanable.

The floor must be light-colored, non-absorbent, smooth textured and easily cleanable.

The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.
  - c. Occupants. No more than one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of

sexual activity, cause any bodily discharge or litter while in the booth.

2. Any Adult Motion Picture Theater shall comply with the following requirements.

a. Aisle lights and overhead lights in the theater shall be kept on during business hours and shall illuminate to a minimum of ten foot candles except when motion pictures are being shown;

b. No standing shall be allowed in the theater;

c. Signs shall be posted warning patrons that sexual activity is prohibited in the theater and informing them of the presence of surveillance cameras, if any; and

d. Theater employees shall regularly patrol the theater during business hours and eject persons found to be engaged in sexual intercourse, a sexual act, sexual contact or any criminal activity on site. Incidents of sexual intercourse, sexual acts, sexual contact or criminal activity in the theater shall be immediately reported to the Bath Police Department.

3. Rest rooms must be individual rooms and shall not contain facilities for more than one person at a time. No more than one person shall be in the rest room with the door closed at any time. In the event the Adult Business Establishment licensee is a lessee of the premises on which the Adult Business Establishment is located, both the licensee and the owner shall be responsible for compliance with this section, and both the licensee and the owner shall be legally responsible for any violation.

R. Dancers and other performers.

An Adult Business Establishment must observe the following restrictions on dancers and other performers:

1. All dancing or other performances must occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.

2. There shall be no physical contact on the premises between dancers and patrons. No dancing or other performance shall occur closer than ten feet from any patron, and no patron shall be allowed to be closer than ten feet from any dancer or other performer. For purposes of this Subsection, physical contact does not include incidental touching between a dancer and patron of a business or social nature, i.e., handshake or the brief contact that occurs while a patron is giving a tip to a dancer.

3. Dancers or performers who remove any garments during the nude entertainment shall not toss or throw those garments to any customers or patrons.

4. Dancers or performers providing the nude entertainment shall not engage in any sadomasochistic acts or specified sexual acts as defined in this Ordinance.

S. Reserved.

T. Outside displays.

There shall be no outside display of any materials, text, or devices exhibiting or describing specific sexual activities, sexual material or paraphernalia. No sexual explicit materials, entertainment or activities shall be visible from the exterior of the premises.

U. Conflicts.

The provisions of this Section shall be in addition to any other related land use,

building, safety or health codes and if in conflict, the provisions of this Section shall prevail.

V. Violations; penalties.

In addition to revocation or suspension of an Adult Business Establishment License as provided in Sec. L, the violation of any provision of this Section shall be punished by a fine not less than one thousand dollars (\$1000) nor more than two thousand five hundred dollars (\$2500) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the City may enjoin or abate any violation of this Section by appropriate action, including but not limited to revocation of the License. All fines and penalties, together with costs of prosecution of violations, which shall include the City's costs and attorney's fees, shall enure to the benefit of the City.

W. Enforcement.

This Section shall be enforced by the Police Chief, the Codes Enforcement Officer, the Fire Chief, their designees, or other appropriate staff member. Notice of violations by Adult Business Establishment Licensees of other provisions of the Bath Code of Ordinances shall be provided to the Police Chief, Manager, Council and City Solicitor.

X. Severability.

If any section, phrase, sentence or portion of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Y. Appeals.

An appeal from any final decision of the Council may be taken by any party to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. Any denial, suspension or revocation shall be in writing and shall include notification of the right to and procedure for appeal.

Section 5-97 through 5-100. Reserved

## **ARTICLE 10. CABLE TELEVISION.**

Section 5.101. Designation of Article.

This Article shall be known as the City, of Bath Cable Television Article. (Ord. 5/7/75 § 1)

Section 5-102. Definitions.

For the purposes of this Article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and vice versa. The word "shall" is always mandatory and not merely directory.

**Cable Service.** The one-way transmission to Subscribers of video programming or Other Programming Services, together with Subscriber interaction, if any, which is required for the selection or use of such video programming or Other Programming Service.

**City** means the City of Bath organized and existing under the laws of the State of Maine and all territory within its existing and future territorial corporate limits.

**Cable Television System** means any facility that, in whole or in part, receives directly or indirectly over the air, amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such service. The term does not include: (1) any facility that serves fewer than 50 subscribers; or (2) any facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of the apartment dwellings.

**Franchise Authority** is the City Council of the City of Bath.

**FCC** is the Federal Communications Commission.

**Franchise** means the right, privilege and franchise to construct, operate and maintain a cable television system, and appurtenances or parts thereof, in the streets, roads, alleys, and other public ways of the City.

**"Cable Operator"** means any person or persons owning, controlling, operating, managing or leasing a cable television system within the City, pursuant to this Article, and pursuant to any franchise granted to it by the City. This term shall include any lawful successor(s) to the interest of such person or persons where consent to such successor(s) is approved under the provisions of this Article or under the terms of a Franchise Agreement entered into pursuant to this Article.

**Gross annual revenues** means any and all payments made to or compensation received by a Cable Operator, its affiliates, subsidiaries, parents and any person or entity in which the Cable Operator or any such affiliate, subsidiary or parent has a financial interest, directly or indirectly (collectively called "affiliated entities"), from subscribers, advertisers or other users of the cable system in connection with the operation of the cable system within the franchise area, including revenues from subscribers or users in payment for programs received and/or transmitted, pay and subscription TV, optional programs and special contracts, charges for connection, disconnection, repairs and adjustments, advertising revenue, rentals of access facilities and equipment, revenues from equipment sales or rental, revenues from channel leasing and any other monies that constitute income derived from the provision of cable service.

**Person.** Any corporation, partnership, limited partnership, association, trust,

organization, other business entity, individual or group of individuals acting in concern.

Program means any audible, visual or facsimile signal, message, graphics, data or communication of any kind transmitted on the cable system whether analogue or digital.

Programming or Video Programming., Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

Subscriber means any person, firm, corporation or other entity receiving, or subscribing to, for any purpose any cable service by means of, or in connection with, of a Cable Operator's cable television system including, but not limited to the conventional cable television service of retransmission of television broadcast, radio signals, Cable Operator's original cable casting, and the local government education and public access channels.

Section 5-103. Franchise required.

No person, firm or corporation shall install, maintain or operate within the City or any of its public streets or other public areas any equipment or facilities for the operation of a cable television system unless a franchise agreement authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise agreement is in full force and effect.

Section 5-104. Franchise Agreement.

The Municipal Officers of the City may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more Cable Operators for the operation of a cable television system within the City, including the granting of non-exclusive franchise agreements for the operation thereof.

Prior to issuing a request for proposals to any Cable Operators for franchise agreements or renewals, the City shall hold a public hearing or conduct some other process to determine any special local needs or interests with respect to cable television service and shall allow for a period of public comment on the request for proposals.

Franchise agreement applications, including renewal applications, and any submittals in response to a request for proposals or solicitation of bids and related documents, are public records. Upon the filing of such documents, the City shall provide reasonable notice to the public that such documents are open to public inspection during reasonable hours.

Each franchise agreement between the City and the Cable Operator shall contain but is not limited to, the following provisions:

A statement of the area or areas to be served by the Cable Operator;  
A line extension policy;

A provision for renewal, the term of which may not exceed ten (10) years;  
Procedures for the investigation and resolution of subscriber complaints by the Cable Operator;

An agreement to comply with the requirements of 30-A M.R.S.A. §3010 regarding consumer rights and protection and any amendments thereto;

Any other terms and conditions that are in the best interest of the City;

A provision for access to, and facilities to make use of, one or more local public, educational and governmental access channels; and

A provision for payment by the Cable Operator of the City's expenses incurred in connection with the award and negotiation of the franchise agreement and all activities and processes connected therewith, including consultants fees and expenses.

Section 5-105. Bonds, indemnifications and insurance.

(a) Performance Bond to City. Concurrent with the award of a franchise to it, the Cable Operator shall file with the City Clerk and shall thereafter annually during the entire term of such franchise maintain in full force and effect a corporate surety bond or other adequate security agreement in such amount and kind that shall have been approved by the City Council. The bond or agreement shall be so conditioned that in the event that the Cable Operator shall fail to comply with any one or more provisions of this Article or of such franchise agreement, then there shall be recoverable jointly and severally from the principal and surety any damage or loss, or cost suffered or incurred by the City as a result thereof, including attorney's fees and costs of any action or proceeding and: including the full amount of any compensation, indemnification, cost of removal or abandonment of any property or other costs which may be in default up to the full principal amount of such bond. Said conditions shall be a continuing obligation during the entire term of the franchise agreement.

(b) Hold Harmless Agreement. The Cable Operator shall indemnify and hold harmless the City, its councilors, officers, boards, commissions, agents, and employees against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages (including but not limited to damages to City property, damages arising out of copyright infringements, and damages arising out of any failure by the Cable Operator to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Cable Operator's cable television system), costs or liabilities (including costs or liabilities of the City with respect to its employees), of every kind and nature whatsoever, including but not limited to damages for injury of death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against all loss, cost, and expense resulting or arising out of any of the same, including any attorney fees, accounting fees, expert witness or consultant fees, court costs, per them expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the construction, operation, maintenance, repair or service of the Cable Operator's cable system in the City or the exercise or the enjoyment of any franchise hereunder by the Cable Operator, or the granting

thereof by the City.

(c) Defense of litigation. The Cable Operator shall at the sole risk and expense the Cable Operator, upon demand or the City, made by and through the City Attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the City, its councilors, officers, boards, commissions, agents, or employees, and arising out of or pertaining to the construction, operation, maintenance, repair or service of the Cable Operator's cable system in the City or the exercise or the enjoyment of such franchise, or the granting thereof by the City.

The Cable Operator shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against the Cable Operator, the City, its councilors, officers, boards, commissions, agents, or employees in any of these premises; and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, or otherwise; provided, that neither the Cable Operator nor City shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit, or other proceeding, without first obtaining the written consent of the other.

(d) Insurance. The Cable Operator shall be required to maintain insurance in such forms and in such companies as shall be approved by the City, such approval not to be unreasonably withheld, to protect the City and the Cable Operator from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation, or maintenance of any aspect of the cable system. The amount of such Insurance shall be not less than as determined by the City Council.

Workmen's Compensation Insurance shall also be provided as required by the laws of the State of Maine.

All said insurance coverage shall provide a thirty (30) day notice to the City Clerk in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

Copies of all policies required hereunder shall be furnished to and filed with the City Clerk, prior to the commencement of construction or operation of the cable system or the expiration of prior policies as the case may be.

(e) Non-waiver. Neither the provisions of this Section, nor any bonds accepted by the City pursuant hereto, nor any damage recovered by the City thereunder, shall be construed to excuse unfaithful performance by the Cable

Operator or limit the liability of the Cable Operator under this Article or the contract for damages, either to the full amount of the bond or otherwise. (Ord. 5/12/75, 4.)

Section 5-106. Application.

a) Any application for a cable television franchise or renewal of a franchise, in the City must contain the following information:

The name, address, and telephone, number of the applicant

A detailed statement of the corporate or other business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the City.

The names, residence and business addresses of all officers, directors, and associates of the applicant.

The names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control 1% or more of the ownership of the applicant and each parent or subsidiary of the applicant and the respective ownership share of each such person or entity.

The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement of the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.

A detailed description of all previous experience of the applicant in providing cable television system service and in related or similar fields.

A detailed and complete financial statement of the applicant, its parent and its subsidiaries, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the City Council, setting forth the basis for a study performed by such lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the City, or a statement from a certified public accountant certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in the City.

A statement identifying, by place and date, any other cable television franchise(s) awarded to the applicant, its parent or subsidiary, the status of said franchise(s) with respect to completion thereof; the total cost of completion or such system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof.

A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

A detailed map indicating all areas proposed to be served, and a proposed construction time schedule for the installation of all equipment necessary to become



operational throughout the entire area to be served, and the time of commencement of construction and anticipated operation date.

A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and service charges and deposit agreement.

A detailed, informative, and referenced statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those contained in Title 47 C.F.R. Subpart K (Sections 76.601, et seq.), of the Rules and Regulations of the Federal Communications Commission, as amended in the future, and shall in addition comply with Section 5-112 herein.

A copy of the form of any agreement, undertaking, or other Instrument proposed to be entered into between the applicant and any subscriber and between the applicant and any lessee of any channel, including provisions for reimbursement in the event of interruption of service.

A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any persons, firm, or corporation which materially relate or pertain to or depend upon the application and the granting of the contract

A detailed statement setting forth in its entirety the proposed system design. Such statement shall include proposals concerning system architecture, channel capacity, channel uses, access, programming facilities, studio location, point to point service, two-way service, subscriber privacy, and interconnection.

Such other information as required by the City at the time of the franchise application. No franchise, including franchise renewals, will be granted hereunder without notice to the public and a public hearing.

(Ord. 5/12/75, §5.)

Section 5-107. Contract term, termination and renewal.

Term. Any franchise awarded by the Council under this Article shall be for a term of not more than ten (10) years. The Cable Operator shall have no right to renewal of a Franchise Agreement, but any renewal shall be in the sole discretion of the City Council acting in accordance with any applicable provisions of Maine or federal law.

Any renewal of a Franchise Agreement shall be upon such terms and conditions as may be mutually agreed upon by the Council and the Cable Operator, provided the Cable Operator has fulfilled all terms and conditions of any previous contract. Such renewal shall be for a period of not more than ten years from the expiration of the previous franchise. Prior to any renewal or extension of the franchise, Cable Operator must satisfy the Council at a public hearing that It has maintained or will improve the system to remain abreast of all current standards of service and quality.

Termination. The City may revoke or terminate any franchise awarded pursuant to the provisions of this Article or may impose reasonable penalties upon written notice to the Cable Operator, return receipt requested, and after hearing in the event that:

The Cable Operator violates any provision of this article or franchise agreement awarded hereunder, or any renewal order or determination made pursuant to this Article, except where such violation is without fault or through excusable neglect, as determined by the City Council. Termination under this paragraph shall take effect unless such violation is cured within thirty days of the aforesaid notice to the satisfaction of the Council expressed by resolution.

The Cable Operator becomes insolvent, unable or unwilling to pay its debts or is adjudged a bankrupt or, the Cable Operator attempts to evade any of the provisions of this Article or the Franchise Agreement or practices any fraud or deceit upon the City; or

Other circumstances exist justifying termination under the terms of the franchise agreement as determined by the City Council.

Any appeal or challenge to a revocation or termination of a franchise agreement shall be to the Maine Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

Public Hearing - New Franchise and/or Renewal. Before authorizing the issuance of any such franchise agreement, including renewals, the Municipal Officers shall review the applicant's character, financial and technical qualifications, the proposed agreement's ability to meet current and future cable-related needs and interests, and the adequacy and feasibility of the applicant's qualifications to operate a cable television system within the City, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed franchise agreement or renewal.

Public Hearing - Transfer. Before approving any transfers of ownership, property or rights under franchise agreements, the Municipal Officers shall review the applicant's character, financial and technical qualifications, and the adequacy and feasibility of the applicant's qualifications to operate a Cable Television system within the City, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed transfer.

(Ord. 5/12/75, 6.)

Section 5-108. Fees.

Bid bond and deposit the application for a franchise, as required elsewhere under this Article shall be accompanied by a Bid Bond in the amount of \$5,000.00, which shall be returned upon the awarding of a franchise with the City and receipt of a license to operate from the FCC. In addition, to partially pay City administrative costs including evaluating bid proposals, a nonrefundable \$500.00 deposit must accompany the application or bid proposal, to partially defray the costs of public notice, advertising and expenses of hearing.

Annual fee. In return for the rights and privileges contained in any franchise awarded

pursuant to the provisions of this Article, the Cable Operator shall Pay to the City an annual franchise fee, assessed as a percentage of the Cable Operator's gross annual revenues, as stipulated in any such Franchise Agreement.

Method of computation. Payments due the City under the terms of the Article shall be computed quarterly as of September 30, December 31, March 31 and June 30 for the preceding quarter and shall be paid on or before the thirtieth calendar day from each said computation date at the office of the City Treasurer during his regular business hours. The City shall be furnished a statement with each payment, certified as correct by the Cable Operator and prepared by a Certified Public Accountant, reflecting the total amount of gross annual revenues generated by all activities within the City, and the above charges, deductions and computations, for the three months payment period covered by the payment.

Rights of recomputation. No acceptance or any payment shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under this Article or for the performance of any other obligation hereunder.

Failure to make required payment. Failure to pay any fees required by this Section shall result in automatic default of the franchise granted, and reinstatement thereof may be had only upon resolution by the Council, and payment of the delinquent fee or fees plus any interest or penalties as may be required by the resolution. (Ord. 5/12/75, 7.)

Section 5-109. Conditions of street occupancy.

Any work which requires disturbance of the surface of any street or which will interfere with traffic shall not be undertaken without the prior permission and approval of the manner or doing the work by the City Manager.

All poles, fixtures, wires, structures, lines and equipment erected by the Cable Operator within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, easements and other public ways and places, and to cause minimum interference with the rights of reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places.

Existing poles, posts and other such structures of the electric power company or any telephone company or any other public utility which may be available to the Cable Operator for leasing or licensing shall be used to the extent practicable in order to minimize interference with travel.

(c) The Cable Operator shall have the right and authority to trim, cut and keep clear trees and bushes upon and overhanging all[ streets, alleys, easements, sidewalks and public places In the City so as to keep same clear of its poles, wires, cables, conduits and fixtures; provided that, except for incidental trimming done by the Cable Operator's employees in the course of performing their other duties, any tree trimming done by the Cable Operator shall be subject to Grantor's prior approval.

(d) In the case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Cable Operator shall, at its own cost and expense in a manner

provided and approved by the City Manager, replace and restore all paving, sidewalk, driveway or surfacing so disturbed in as good condition as before said work was commenced.

(e) If at any time during the period of a Franchise Agreement the City shall lawfully elect to alter or change any street, alley, easement or other public way requiring the relocation of the facilities of Cable Operator, then in such event the Cable Operator, upon reasonable written notice by the City, shall remove, relay, and relocate the same at the Cable Operator's expense.

(f) Cable Operator shall, upon the request of any person holding a building moving permit issued by the City temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Cable Operator shall have the authority to require such payment in advance. The Cable Operator shall be given not less than ninety-six (96) hours advance notice to arrange for such temporary wire changes. (Ord. 5/12/75, §10)

#### Section 5-110. Operation, service and maintenance of system.

(a) The Cable Operator shall construct, maintain and operate a cable television system safely and render efficient service to subscribers during the term of this license.

(b) Licensee shall construct, upgrade, install, operate, maintain and remove the Cable Television System in conformance with Occupational Safety and Health Administration regulations, the Maine Electrical Code, the National Electric Code, the NCTA Safety Manual, the National Electric Safety Code, the Bell Telephone System Code of Pole Line Construction, the rules and regulations of the FCC, all building and zoning codes, and all land use restrictions as they may now exist or may be amended or adopted hereafter.

(c) Any tower constructed for use in the Cable Operator's cable television system shall comply with the standards contained in "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", TIA/EIA-222-F as published by the Telecommunications Industry Association, 2500 Wilson Blvd., Arlington, VA 22201.

(d) Installation and physical dimensions of any tower constructed for use in the Cable Operator's cable television system shall comply with all appropriate Federal Aviation Agency regulations, including, but not limited to, "Objects Affecting Navigable Airspace", 14 C.F.R. 77.1 et seq., as they now exist or may be amended or adopted hereafter.

(e) Any antenna structure used, in the Cable Operator's cable television system shall comply with "Construction, Marking, and Lighting of Antenna Structures", 47 C.F.R. 17.1 et seq., as said regulations now exist or may be amended hereafter.

(f) The Cable Operator shall install and maintain its wire, cable, mixtures and other equipment in accordance with the requirements of the ordinances or the

City as may be amended, and in such a manner which shall not interfere with any installations of the City or any public utility serving the City. (Ord. 5/12/75, §11.)  
Section 5-111. Preferential or discriminatory practices prohibited.

(a) The Cable Operator shall not, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to any prejudice or disadvantage.

(b) Upon application to the City for a cable television franchise or franchise renewal the applicant shall submit its equal employment opportunity program and affirmative action plan for the hiring of women and minorities. Any successful applicant shall zealously pursue the ends of this program during the term of its franchise. (Ord. 5/12/75, §12 .)

Section 5-112 New developments.

It shall be the policy of the City liberally to amend this Article, upon application of the Cable Operator, when necessary to enable the Cable Operator to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve its customers; provided, however, that this Section shall not be construed to require the City to make any amendment or to prohibit it from unilaterally amending this Article. (Ord. 5/12/75, §14)

Section 5-113. Reports and records.

The City may require the Cable Operator to maintain and file such reports, contracts and statements, including but not limited to ownership, accounting, auditing and operating statement, engineering reports, and other data which the City shall deem necessary or appropriate to administer the provisions of this article.

The Cable Operator shall provide annually to this City:

Copies of all other orders, rules, regulations or reports that are filed or required to be filed with other regulatory agencies, including the State and Federal Government. An ownership report, indicating all persons who at any time during the preceding year did control or benefit from an interest in the contract or the Cable Operator or any parent of Cable Operator of one per cent (1%) or more and all creditors, secured and unsecured, in excess of One Thousand Dollars (\$1,000.00); and Such further documents, reports or information as may be required by the terms of the Franchise Agreement with the Cable Operator. All of the above information shall be deemed public documents and may be examined at reasonable times at written request.

Records which shall be available to the City shall include, but not be limited to:

All correspondence among the Cable Operator and any of his agents, and all regulators or other government agencies.

All reports, applications, and other documents sent to, or required by, any government agency.

All oral and written complaints received by the cable operator or the Cable Operator or his agents for the preceding years of the term of the franchise, and the disposition thereof.

A log of all requests for access time and the disposition of those requests.

All financial records reasonably necessary to determine compliance with and carry out the provisions of this Article and any franchise agreement  
(Ord 5/12/75, §14.)

#### Section 5-114. Rights reserved to the City.

(a) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the City to acquire the property of the Cable Operator, either by purchase or through the exercise of the right of eminent domain and nothing herein contained shall be construed to contract away or to modify or abridge, whether for a term or in perpetuity, the City's right of eminent domain.

(b) There is hereby reserved to the City every right and power which is required to be herein reserved or provided by any law, and the Cable Operator, awarded a franchise pursuant to the provisions of this Article agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or power, heretofore or hereafter enacted or established.

(c) There is hereby, reserved to the City the power to amend any section of this Article so as to require additional or greater standards of construction, operation, maintenance or otherwise, subject only to preemption by the FCC, on the part of the Cable Operator to reflect technical and economic changes occurring during the franchise term, and to enable the City and the Cable Operator to take advantage of new developments in the cable television industry so as to more effectively, efficiently and economically serve the public.

(d) Neither the awarding of a franchise nor any provision hereof shall constitute a waiver or bar to the exercise of any governmental right or power of the City.

(e) The City may do all things which are necessary and convenient in the exercise of its jurisdiction under this Article and may determine any question of fact which may arise during the existence of any franchise granted hereunder. The City, with the approval of the City Solicitor, is hereby authorized and empowered to adjust, settle, or compromise any controversy or charge arising from the operations of the Cable Operator under this article, either on behalf of the City, the Cable Operator, or any subscriber, in the best interest of the public.

(f) The City shall have the right to inspect all construction of installation work for a cable television System and to make such inspections as it shall find necessary to insure compliance with the terms of this Article, and franchise awarded pursuant hereto, and any other pertinent provisions of the law.

(g) At the expiration of the term for any cable television franchise, or upon its termination for other reasons as provided for herein, the City shall have the right to require the Cable Operator to remove at its own expense all portions of the cable communication system from all streets and public ways within the City.

(h) Nothing in this Article or the franchise shall encumber or prohibit the City from the collection of property taxes, or whatsoever kind, allowed by state law. (Ord. 5/12/75, §16)

Section 5-115. Right to appeal reserved to the Cable Operator.

Should the Cable Operator become dissatisfied with any major decision or ruling of any City official, the Cable Operator may appeal the matter to the City Council. The City Council may accept, reject or modify the decision appealed and may adjust, settle or compromise any controversy or cancel any charge arising from the operations of the Cable Operator or from any provision of this Article or any Franchise Agreement entered into pursuant to this Article. (Ord. 5/12/75, §17.)

Section 5-116 Rules, regulations and procedures.

Except where specifically provided otherwise, the City shall devise, promulgate and administer all rules, regulations and procedures which may be needed to implement any or all sections of this Article and any or all sections of any franchise agreement, not inconsistent therewith, granted pursuant to this Article. Any such rules, regulations, and procedures shall be binding on the Cable Operator operating a cable communications system in the City. (Ord. 5/12/75 §18)

The Municipal Officers of the City shall, either directly or through their designees:

Adopt such ordinance rules and regulations as they may deem necessary for regulating the operation of a cable television system;

Make recommendations to the Cable Operator concerning educational and local interest programming;

Resolve complaints, disputes or disagreements between subscribers and the Cable Operator;

Conduct public hearings and issue such appropriate orders as it may deem necessary to enforce the provisions of this Ordinance and any regulations, rules and orders and franchise agreements, including the revocation of franchise agreements and the assessment of penalties for violations, as well as to correct any deficiencies in the

operation of the system. The Municipal Officers' decisions and findings shall be final and binding upon all parties including the Cable Operator, except such decision or finding may be appealed to the Superior Court pursuant to Rule 80B, M.R.Civ.P. All such ordinances, regulations, rules and orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems, except that unless expressly preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations; and As part of its enforcement authority, the Municipal Officers have the authority to bring legal action for damages, penalties and for injunctive relief. The City shall be entitled to recover its costs, including reasonable attorneys fees, incurred in the enforcement of this Ordinance, the provisions of a franchise agreement, or any local rules or regulations adopted pursuant to this Ordinance.

#### Section 5-117 Regulation of Basic Service Rates and Charges

Pursuant to the Cable Television Consumer Protection and Competition Act of 1992, and in accordance with FCC prescribed regulations In the Report and Order, In the Matter of Implementation of Sections of Cable Television Consumer Protection and Competition Act of 1992.- Rate Regulation, MM: Docket 92-266, FCC 93-177 (released May 3, 1993), the City of Bath as a franchising authority, with the legal authority to adopt, and the personnel to administer, regulations with respect to Basic Service Rates and Charges, does hereby exercise that authority and indicate its intent and desire to regulate Basic Service Rates and Charges of any franchise holder. Such regulations shall be In accordance with the following:

1. The City will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of the Cable Operator and any other cable television system operating in the City, notwithstanding any different or inconsistent provisions In the Franchise Agreement or this Ordinance; and
2. In connection with such regulation, the City will ensure a reasonable opportunity for consideration of the views of interested parties; and
3. The City council chairman and the City Manager are authorized to execute on behalf of the City and file with the FCC such certification forms and other instruments as are now or may hereafter be required by the FCC Rate Regulations In order to enable the City to regulate Basic Service Rates and Charges.  
(Ord. 12-8-93 #93-25)

#### Section 5-118. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Article or franchise granted hereunder is for any, reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provisions and such



holding shall not affect the validity of the remaining portions thereof, and such Invalid portions are hereby repealed. Such invalid portions shall be renegotiated by the City Council and the Cable Operator and, where applicable, the FCC (Ord. 5/12/75 §19 )

Section 5-119 through Section 5-130. Reserved.

## **ARTICLE 11. AMBULANCES AND AMBULANCE SERVICES.**

Section 5-131. Definitions.

(a) Unless otherwise specified, the term:

1 . Ambulance means any motor vehicle that is designed, constructed, used or intended to be used for the transportation of patients.

2. Attendant means a trained and/or qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.

3. Attendant-driver means an individual who is qualified as an attendant also serves as driver.

4. Driver means an individual who drives an ambulance.

(Ord. 3/1/78, §1.)

Section 5-132. License required.

(a) No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients upon the streets, alleys, or any public way or place of the City unless he holds a currently valid license for an ambulance, issued pursuant to this Article. An ambulance operated by an agency of the United States shall not be required to be licensed hereunder.

(b) No ambulance shall be operated, and no individual shall drive, attend or permit it to be operated on the streets, alleys, or any public way or place of the City unless it shall be under the immediate supervision and direction of a person who is holding a currently valid license as a driver, attendant-driver or attendant.

(c) Provided however, that no such licenses shall be required for an ambulance, or for the driver, attendant or attendant-driver of an ambulance, which:

(1 ) Is rendering assistance to licensed ambulances in the case of a major catastrophe or emergency with which the licensed ambulances of the City are insufficient or unable to cope; or

(2) Is operated from a location or headquarters outside of the City in order to transport patients who are picked up beyond the limits of the City to locations within the City, or to transport patients who are picked up within the City to locations beyond the limits of the City but no such outside ambulance shall be used to pick up patients within the City for transportation to locations within the City unless the driver,

attendant or attendant-driver and the person subject to the provisions of Section 5-142(b) of this Article in respect of such ambulance, hold currently valid licenses issued pursuant to this Article.  
(Ord. 3/1/78, §2.)

#### Section 5-133. Application for ambulance license.

(a) Applications for ambulance licenses hereunder shall be made upon such forms as may be prescribed or offered by the City Council and shall contain:

- (1) The name and address of the applicant and the owner of the ambulance.
- (2) The trade or other name, if any, under which the applicant does business and proposes to do business.
- (3) The training and experience of the applicant in the transportation and care of patients.
- (4) A description of each ambulance, including the make, model, year of manufacture, motor and chassis number; current State license number; the length of time the ambulance has been in use; and the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate applicant's ambulance.
- (5) The location and description of the place or places from which it is intended to operate.
- (6) Such other information as the City Council shall deem reasonably necessary to a fair determination of compliance with this Article.
- (7) An accompanying license fee of Fifty Dollars (\$50.00) for the first vehicle and Twenty Five Dollars (\$25.00) for each additional vehicle. (Ord.3/1/78,§3.)

#### Section 5-134. Standards for ambulance license.

- (a) Each ambulance shall, at all times when in use as such,
- (1) Conform with all applicable State law and with the standards, requirements and regulations provided for in this Article for the transportation of patients, from the standpoint of health, sanitation, and safety, and the nature of the premises in which it is maintained;
  - (2) Contain equipment conforming with all applicable State laws and with the standards, requirements and regulations provided for herein, which equipment shall be in proper and good condition for such use;
  - (3) Currently comply with all applicable laws and local ordinances relating to health, sanitation and safety; and
  - (4) Be equipped with such lights, sirens and special markings to designate it as an ambulance as may be prescribed in all applicable State laws and in reasonable regulations provided for by the City Council; and
- (b) Any change of ownership of a licensed ambulance shall terminate the license and shall require a new application and a new license and conformance with all the requirements of this Article as upon original licensing.

(c) Application for transfer of any ambulance license to another or substitute vehicle shall require conformance with all the requirements of this Article as upon original licensing. No ambulance license may be sold, assigned, mortgaged or otherwise transferred without approval of the City Council and a finding of conformance with all the requirements of this Article as upon original licensing.

(d) Each licensed ambulance, its equipment and the premises designated in the application and all records relating to its maintenance and operation as such, shall be open to inspection by the Chief of Police during usual hours of operation.

(e) No official entry made upon a license may be defaced, removed or obliterated.

(Ord. 3/1/78,§4.)

#### Section 5-135. Liability insurance.

(a) No ambulance license shall be issued under this Article, nor shall such license be valid after issuance, nor shall any ambulance be operated in the city, unless there is at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the State, for each and every ambulance owned and/or operated by or for the applicant or licensee, providing

(1) For injury to or death of individuals in accidents resulting from any cause for which the owner of said ambulance would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agent, and

(2) Against damage to the property of another, including personal property, under like circumstances, in such sums and under such terms as may be required by statute.

(b) Every insurance policy required hereunder shall contain a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon, that the liability of the insurer shall not be affected by the insolvency or the bankruptcy of the assured, and that until the policy is revoked the insurance company will not be relieved from liability on account of nonpayment of premium, failure to renew license at the end of the year, or any act or omission of the named assured.

(c) Every insurance policy required hereunder shall extend for the period to be covered by the license applied for and the insurer shall be obliged to give not less than ten (10) days written notice to the City Clerk and to the assured before any cancellation or termination of the policy earlier than its expiration date and the cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued for the ambulance covered by such policy, unless

another insurance policy complying with the provisions of this Section shall be provided and be in effect at the time of such cancellation or termination.

(d) Every insurance policy required hereunder shall have at least the following coverage: bodily injury liability limits of Three Hundred Thousand Dollars (\$300,000.00) combined single limit in the same accident; and property damage liability limit of three Hundred thousand Dollars (\$300,000.00).  
(Ord. 3/1/78, §5.)

#### Section 5-136. Issuance of license.

(a) The Clerk shall, within ten days after receipt of an application for an ambulance license as provided for herein, cause such investigation as he deems necessary to be made of the applicant and of his proposed operations.

(b) The City Clerk shall issue a license hereunder for a specified ambulance, to be valid for a period of one year unless earlier suspended, revoked or terminated, when he finds that:

(1) Each such ambulance, its required equipment and the premises designated in the application, comply with the standards prescribed in this Article and with the regulations promulgated under such Section;

(2) The applicant is a responsible and proper person to conduct or work in the proposed business;

(3) Only duly licensed drivers and attendants are employed in such capacities ; and

(4) All the requirements of this Article and all other applicable laws and ordinances have been met.

(Ord. 3/1/78, §6)

#### Section 5-137. Inspections.

(a) Prior to the issuance of any ambulance license hereunder, the Fire Chief and Police Chief shall inspect or cause to be inspected the vehicles, equipment and premises designated in each application hereunder, to determine compliance with the standards prescribed in Section 5-134(a) and in Section 5-138 of this Article, and with the regulations explained in such Sections.

(b) Subsequent to issuance of any ambulance license hereunder, the Chief of Police and the Fire Chief shall cause to be inspected each such licensed vehicle, and its equipment and premises, whenever he deems such inspection to be necessary but in any event no less frequently than twice each year. The periodic inspection required hereunder shall be in addition to any other safety or motor vehicle inspection required to be made for ambulances or other motor vehicles, or other inspections required to be made, under general law or ordinances, and shall not excuse compliance with any requirement of law or ordinance to display any official certificate of motor vehicle inspection and approval nor excuse compliance with the requirements of any other applicable general law or ordinance.

(c) A copy of each initial, semiannual or other ambulance, equipment and premises inspection report by the license officer under the provisions of this section shall be promptly transmitted to the applicant or licensee to whom it refers.  
(Ord. 3/1/78, §7.)

#### Section 5-138. Ambulance equipment.

(a) Required equipment in each ambulance shall include, at all times when the ambulance is in use as such, equipment adequate in the judgment of the Health Officer for dressing wounds, splinting fractures, controlling hemorrhage, and providing oxygen, and all other equipment required by State law.

(b) The Health Officer is authorized and directed, after public notice and opportunity for public hearing, to certify to the license officer standards for ambulance equipment to implement the standards provided herein as to required equipment for ambulances. In determining the adequacy of equipment, the health officer shall take into consideration the current list of minimal equipment for ambulances, adopted by the American College of Surgeons or its duly authorized committee on trauma.  
(Ord. 3/1/78, §8.)

#### Section 5-139. Renewal of license.

Renewal of any license hereunder, upon expiration for any reason or after revocation, shall require conformance with all the requirements of this Article as upon original licensing.  
(Ord. 3/1/78, §9)

#### Section 5-140. Revocation of license..

(a) The City Manager may, and is hereby authorized to, suspend or revoke a license issued hereunder for failure of a licensee to comply and to maintain compliance with or for his violation of, any applicable provision, standards, requirements, or regulations of this Article, or of any other applicable laws, ordinances or regulations. Within ten (10) days after a suspension, the licensee shall be afforded a hearing, after reasonable notice. The City Manager shall, within twenty days after conclusion of such hearing, issue a written decision (which shall include written findings) as to the suspension of said license. Such written decision shall be promptly transmitted to the licensee to whom it refers.

(b) The initial, semiannual or other ambulance, equipment and premise inspection reports of the Chief of Police, Fire Chief and the Health Officer herein provided for shall be prima facie evidence of compliance or noncompliance with, or violation of, the provisions, standards and requirements provided herein, and of the regulations promulgated hereunder, for the licensing of ambulances.

(c) Upon suspension, revocation or termination of an ambulance license hereunder, operations as such shall cease with such ambulance and no person shall permit continued operation with such ambulance as such. Upon suspension, revocation or termination of a driver's, attendant's or attendant-driver's license hereunder, such driver, attendant or attendant-driver shall cease to drive or attend an ambulance and no person shall employ or permit such individual to drive or attend an ambulance.

(Ord. 3/1/78, §10)

#### Section 5-141. Reports.

(a) Each licensee of an ambulance hereunder shall maintain accurate records, upon such forms as may be provided or prescribed by and containing such information as may be required by, the City Clerk concerning the transportation of each patient within the City or from one place herein to another place within or beyond its limits. Such records shall be available for inspection by the City Manager and Chief of Police at any reasonable time and copies thereof shall be filed by the licensee within twenty-four (24) hours upon request by the City Manager and Chief of Police.

(b) The provisions of Subsection (a) of this Section shall apply with equal force in case the patient shall die before being so transported in such ambulance or dies while being transported therein or at any time prior to the acceptance of the patient into the responsibility of the hospital or medical or other authority if the patient is still under the care or responsibility of the ambulance licensee.

(Ord. 3/1/78, §11)

#### Section 5-142. Ambulances, operation of.

(a) No person shall operate an ambulance, which shall include any motor vehicle primarily designed and used for conveyance of sick or injured persons, in a manner not conforming to a provision of the motor vehicle laws and regulations of this State or of this City as such provision applies to motor vehicles in general, except in compliance with the following conditions:

(1) The person operating the ambulance shall be either responding to a bona fide emergency call or specifically directed by a licensed physician to disregard traffic laws in operating the ambulance during and for the purpose of the specific trip or journey that is involved;

(2) The ambulance shall be equipped with a siren producing an audible signal of an intensity of one hundred decibels at a distance of fifty feet from said siren, and with a lamp emitting an oscillating, rotating or flashing red beam directed in part toward the front of the vehicle and containing a power rating of at least one hundred (100) amperes;

(3) The aforesaid siren and lamp shall be in full operation at all times during such trip or journey; and

(4) Whenever the ambulance is operated at a speed in excess of forty miles per hour, the ambulance shall be operated in complete conformance with every other motor vehicle law and regulation of this State and of this City in which the ambulance is operated, relating to the operation of motor vehicles, as such provision applies to motor vehicles in general, except laws and regulations pertaining to compliance with official traffic-control devices or to vehicular operation upon the right half of the roadway. (Ord. 3/1/78, §12)

Section 5-143. Penalty.

Any person, firm or corporation violating any provision of this Article shall be fined not less than Five Dollars (\$5.00) nor more than Five Hundred Dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 3/1/78 §13)

Section 5-144. Rates.

The City Council of the City of Bath shall from time to time determine the rates to be charged on all services rendered by ambulance services subject to this Article. Any such rate shall be set by Resolution of the City Council as they may from time to time deem necessary. (Ord. 3/1/78 §14)

Section 5-145. Separability clause.

If any provision of this Article or portion thereof, or the application thereof, to any particular person or circumstances, is held to be invalid by a Court of competent jurisdiction, or any regulatory agency, the remainder of the Article, including the remainder of any such provision, and the application thereof, shall not be adversely affected thereby. (Ord. 3/1/78 §15)

Sections 5-146 through 5-200. Reserved.

**ARTICLE 12.**  
**REGULATING THE ISSUANCE OF**  
**SPECIAL AMUSEMENT PERMITS**  
**FOR ESTABLISHMENTS LICENSED FOR THE SALE OF LIQUOR**

Section 5-201. Purpose.

Purpose of this Article is to control the issuances of special permits for music, dancing or entertainment and facilities licensed by the State of Maine to sell liquor, as such special permits are required by 28-A M.R.S.A. §1054. (Ord. 6/18/78)(Ord.5/6/09)

Section 5-202. Definitions.

(a) Entertainment. For the purposes of this Article, shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

(b) Licensee. For the purpose of this Article, licensee shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent or employee of any such licensee.  
(Ord. 6/28/78.)

#### Section 5-203. Permit Required.

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.  
(Ord. 6/28/78.)

#### Section 5-204. Applications.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the matter of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.  
(Ord. of 6-28-78)

#### Section 5-205. Permit fee.

The fee for a special amusement permit shall be set by the City Council, and from time to time adjusted as circumstances and need warrant, by Resolution of the City Council.  
(Ord. of 6-28-78)

#### Section 5-206. Hearing.

(a) The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within fifteen (15)



days of the date of the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

(b) Upon receipt of a renewal special amusement permit by the City, notification will be made to the City Council of such receipt. If the municipal officers do not request a public hearing on the renewal application within forty-eight (48) hours of notification, the City Manager shall be authorized to approve such permit on behalf of the municipal officers.

(Ord. of 6-28-78; Ord. No. 83-28, 11-16-83)

Section 207. Issuance of permit.

(a) No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

(b) The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles, or bylaws.

(Ord. of 6-28-78)

Section 5-208. Term of permit.

The term of any permit issued under this chapter shall coincide with and be valid only for the license year of the applicant's existing liquor license.

(Ord. of 6-28-78)

Section 5-209. Notification of decision.

Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit which has been denied.

(Ord. of 6-28-78)

Section 5-210. Appeal procedure.

Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in 30-A M.R.S.A. §2691. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension

was not based by preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality. (Ord. of 6-28-78)(Ord. 5/6/09)

#### Section 5-211. Inspections.

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official or employee of the municipality authorized to make the inspection at any reasonable time that admission is required. (Ord. of 6-28-78)

#### Section 5-212. Suspension or revocation of a permit.

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this article on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinance, articles, bylaws, or rules and regulations, or creates a public nuisance. (Ord. of 6-28-78)

#### Section 5-213. Rules and regulations.

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted. (Ord. of 6-28-78)

#### Section 5-214. Admission fees.

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission fees for those areas designated as approved by the municipal special amusement permit. (Ord. of 6-28-78)

#### Section 5-215. Penalty.

Whoever violates any of the provisions of this article shall be punished by a fine of not more than one hundred dollars (\$100.00) for the first offense, and up to five

hundred dollars (\$500.00) for the subsequent offenses, to be recovered, on complaint, to the use of the city.  
(Ord. of 6-28-78)

Section 5-216. Separability.

The invalidity of any provision of this article shall not invalidate any other part.  
(Ord. of 6-28-78)

Sections 5-217 through 5-300. Reserved.

### **ARTICLE 13. VICTUALERS.**

Section 5-301. Definitions.

(a) As used in this Article:

(1) EATING PLACE shall mean any place where food or drink is prepared and served or served to the public for consumption on the premises, or catering establishments, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as: hotels, motels, boarding houses, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, road-side stands, industrial feeding establishments, stores, theaters, and other catering or drinking establishments or operations where food is prepared and served or served for consumption on the premises, and catering establishments where food is prepared, or where foods are prepared for vending machines dispensing foods other than in original sealed packages. The words "eating place" shall not be construed to apply to stores selling food or beverages to be taken from the premises where only soft drinks are permitted to be consumed on the premises, nor to any other store where there is not an express invitation to consume any food on the premises, provided however that such stores which also engage in the preparation of food shall not be exempt from this Article. An "eating place" shall specifically include a mobile food service unit as defined herein.

(2) EMPLOYEE shall mean any person working in a food-service establishment, who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food utensils or equipment, and shall include the proprietor or manager or any member of his family, if they handle said food or drink as well as any other person employed in or about eating places, and any catering establishment or establishments preparing foods for vending machines dispensing foods other than in original packages.

(3) VICTUALER shall be deemed to mean any person operating an eating place where food is prepared and/or served to the general public.

(4) EASILY CLEANABLE means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(5) MOBILE FOOD SERVICE UNIT shall mean a unit including a motor vehicle or a pushcart or stand or any other such unit designed and constructed to transport, prepare, sell or serve food at a number of sites and which shall be capable of being moved from its serving site.

(6) POTENTIALLY HAZARDOUS FOODS means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or their ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include clean, whole, uncracked, odor-free shell eggs.

(7) SANITIZATION means effective bactericidal treatment by a process that provides enough accumulative heat or concentrations of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

(8) SINGLE-SERVICE ARTICLES shall mean cups, containers, lids or closures; plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paper board, molded pulp, foil, wood, plastic synthetic, or other readily destructible materials, and which are intended by the manufacturers and generally recognized by the public as for one usage only, then to be discarded.

(9) CATERING ESTABLISHMENTS means any kitchen, commissary or similar place in which food or drink is prepared for sale or service elsewhere or for food service in the premises during special catered events. Ord. (4-5-81)

Section 5-302. License required; bond; expiration.

(a) No person shall engage in the business of victualer without first obtaining a license therefore.

(b) All licenses issued under this Article shall expire on the thirty-first of May after the date of issuance.

(c) Such license shall not be granted except on the certification of the Health Officer and Fire Chief. (Ord. 4/5/81)

Section 5-303. Communicable diseases.

No person while affected with and disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or any acute respiratory infection, shall work in any area of a food-service establishment in

any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals. No person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity, and shall not be retained as employee in or about any part of an eating place after written notice, that such employee is a carrier of a communicable disease, has been sent the proprietor by the local health officer.

Section 5-304. Sanitation of premises; cleaning.

(a) Every operator of an eating place shall keep the establishment and all substances used therein for food or drink on a clean and sanitary condition, free from dirt, dust and insects, and its premises shall be kept neat, clean and free of litter and rubbish.

(b) Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food-contact surfaces. (Ord/ 4-5-81)

Section 5-305. Sleeping equipment.

Sleeping equipment shall not be allowed in any room where food is prepared, served or stored. (Ord. 4-5-81)

Section 5-306. Linen and clothing.

Soiled linens, coats and aprons shall be kept in suitable covered metal or plastic containers or laundry bags until removed for laundering.

Adequate facilities shall be provided for the orderly storage of employees' clothing and personal belongings. Such designated facilities shall be located outside of the food-preparation, food storage, and serving areas. (Ord. 4-5-81)

Section 5-307. Animals prohibited; exception.

No live birds or animals shall be allowed in any area used for the conduct of food-service establishment operations; provided that guide dogs accompanying blind persons may be permitted in dining areas. (Ord.. 4-5-81)

Section 5-308. Floors and walls.

(a) The floor surfaces in kitchens, mobile eating places, in all other rooms and areas in which food is stored or prepared and in which utensils are washed, and in walk-in refrigerators, dressing or locker rooms, and toilet rooms, shall be of smooth, non-absorbent, and easily cleanable materials such as concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood painted or impregnated with plastic; provided, that the floors of nonrefrigerated, dry-food-storage areas need not

be nonabsorbent. All floors shall be kept clean and in good repair.

(b) The walls and ceilings of all rooms shall be kept clean and in good repair. All walls of rooms and areas in which food is prepared, or utensils or hands are washed, shall be easily cleanable, smooth, and light-colored, and shall have washable surfaces up to the highest level reached by splash or spray. (Ord. 4-5-81)

#### Section 5-309. Protection of food from contamination; storage.

(a) All food while being stored, prepared, displayed, served, or catered, vended, or sold at food-service establishments, or during transportation between such establishment, shall be protected from contamination. All perishable food shall be stored at such temperatures as will protect against spoilage. Fish salads, meat salads, poultry salads, potato salads, egg salads, cream-filled pastries, custards, custard pies and other potentially hazardous prepared food shall be maintained at safe temperatures (45°F; or below 140°F or above), except during necessary periods of preparation and service. Raw fruits and vegetables shall be washed before use. Stuffing, poultry, stuffed meats and poultry, and pork and pork products shall be thoroughly cooked before being served. Individual portions of food once served to a customer shall not be served again; provided that wrapped food, other than potentially hazardous food, which is still wholesome and has not been unwrapped, may be re-served.

(b) The refrigerator, ice box, cooling units, or other places where food is stored or kept shall be maintained in a clean and sanitary condition at all times.

(c) containers of food shall be stored above the floor, on clean racks, doilies, or other clean surfaces, in such a manner as to be protected from splash and other contamination.

(d) Where unwrapped food is placed on display in all types of food-service operations, it shall be protected against contamination from customers and other sources by effective, easily cleanable, counter-protector devices, cabinets, display cases, containers, or other similar types of protective equipment. Self-service openings in counter guards shall be so designed and arranged as to protect food from manual contact by customers.

#### Section 5-310. Serving Utensils.

Tongs, forks, spoons, picks, spatulas, scoops, and other suitable utensils shall be provided and shall be used by employees to reduce manual contact with food to a minimum. For self-service by customers, similar implements shall be provided.

#### Section 5-311. Use of toxic materials.

Only such poisonous and toxic materials as are required to maintain sanitary

conditions and for sanitization purposes may be used or stored in food-service establishments. Poisonous and toxic materials shall be identified, and shall be used in such manner and under such conditions as will not contaminate foods or constitute a hazard to employees or customers.

#### Section 5-312. Garbage and rubbish storage; disposal.

(a) All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or not in continuous use; provided that such containers need not be covered when stored in a special vermin-proofed room or enclosure, or in a food-waste refrigerator. All other rubbish shall be stored in containers, rooms, or areas in an approved manner. The rooms, enclosures, areas, and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Adequate cleaning facilities shall be provided, and each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Food-waste grinders, if used, shall be installed in compliance with State and local standards and shall be of suitable construction.

(b) All garbage and rubbish shall be disposed of with sufficient frequency and in such a manner as to prevent a nuisance.

(c) Those establishments using dumpsters to contain garbage and rubbish shall, prior to the storage of such garbage and rubbish in the dumpster unit, contain all food wastes in leak-proof, nonabsorbent containers. It is the intention of this section to require all garbage and rubbish stored in a dumpster unit prior to disposal to be in the appropriate container. The dumpster lid should be closed at all times except when the dumpster is being filled or emptied. All dumpsters shall be cleaned when emptied.

#### Section 5-313. Vermin Control.

Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of vermin.

#### Section 5-314. Lighting of premises required; standards.

(a) All areas in which food is prepared or stored or utensils are washed, hand-washing areas, dressing or locker rooms, toilet rooms, and garbage and rubbish storage areas shall be well lighted.

(b) At least twenty (20) foot-candles of light shall be required on all working surfaces and at least ten (10) foot-candles on all other surfaces and equipment, in food preparation, utensil-washing and hand-washing areas, and toilet rooms. Sources of artificial light shall be provided and used to the extent necessary to provide the required amount of light on these surfaces when in use and when being

cleaned. At least five (5) foot-candles of light at a distance of thirty (30) inches from the floor shall be required in all other areas, including during cleaning operations.

#### Section 5-315. Ventilation.

All rooms in which food is prepared or served or utensils washed, dressing or locker rooms, toilet rooms, and garbage and rubbish storage areas shall be well ventilated. ventilation hoods and devices shall be designed to prevent grease or condensation from dripping into food or onto food-preparation surfaces. Filters, when used, shall be readily removable for cleaning or replacement. ventilation systems shall comply with State and local fire prevention requirements and shall, when vented to the outside air, discharge in such manner as not to create a nuisance.

#### Section 5-316. Insect control; screening.

(a) In establishments preparing and/or serving food, or in mobile eating places, all openings to the outer air shall be effectively protected against the entrance of flies and other flying insects by self-closing doors, closed windows, screening, controlled air currents, or other effective means.

(b) Screening material shall be not less than 16-mesh to the inch or equivalent.

(c) Screen doors to the outer air shall be self-closing; and screens for windows, doors, skylights, transoms, and other openings to the outer air shall be tight-fitting and free of breaks.

#### Section 5-317. Cleaning of utensils; food-contact surfaces; sinks.

(a) All cups, dishes, spoons, knives, forks and other eating and kitchen utensils in eating places shall after using be thoroughly washed with a suitable detergent and water having a temperature of at least 130° F., rinsed in clean hot water and then immersed for at least one-half (1/2) minute in clean hot water of at least 180° F., or immersed for a period of at least two (2) minutes in a chloride solution containing when freshly prepared, two hundred (200) parts per million available chlorine. The solution may not be used after its strength has been reduced below fifty (50) parts per million of available chlorine. Other adequate sterilizing solutions may be used provided that they have been approved by the Health Officer. When dishwashing machines are used they shall be of such materials and so designed and constructed as to be easily cleanable and shall be capable, when operated properly, of rendering all surfaces of equipment and utensils clean to sight and touch, and sanitized. All articles shall be placed in an inverted position on a clean drainboard or rack and allowed to dry. Dishwashing machines shall have a rinse-water temperature of at least 180°F.

(b) All kitchenware and food-contact surfaces of equipment, used in the preparation or service of food or drink, and all food-storage utensils, shall be



thoroughly cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day. All utensils and food-contact surfaces of equipment used in the preparation, service, display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use. Non-food-contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.

(c) Food-contact surfaces of equipment and utensils shall be smooth, free of breaks, open seams, cracks, chips, pits, and similar imperfections, be in good repair, and shall be easily cleanable.

(d) A three (3) compartment sink shall be provided and used wherever dish-washing and sanitization of equipment or utensils are conducted manually; provided that establishments where the only utensils to be washed are limited to spatulas, tongs, and similar devices, and when the only equipment to be cleaned is stationary and does not require disassembly for proper cleaning, a one (1) compartment sink may be used for this purpose. At least a two (2) compartment sink shall be provided and used for washing kitchenware and equipment which does not require sanitization. Single compartment utility sinks, such as cooks' and bakers' sinks, may be used for the rinsing of utensils.

(e) Sinks used for washing and sanitizing operations shall be of adequate length, width, and depth to permit the complete immersion of the equipment and utensils, and each compartment of such sinks shall be supplied with hot and cold running water. Dish baskets shall be of such design as to permit complete immersion of the utensils and equipment components being sanitized therein.

(f) When hot water is used as the sanitizing agent in manual operations, thermometers, accurate to plus or minus 2° F., shall be provided convenient to the sink to permit frequent checks of the water temperature.

(g) After cleaning and until used, all food-contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination.

(h) All single-service articles shall be stored, handled, and dispensed in a sanitary manner, and shall be used only once.

(i) In all new establishments and establishments which are extensively altered, lavatories shall also be located within the area where food is prepared.

Section 5-318. Hot and cold running water required.

Hot and cold running water, under pressure, shall be provided in all areas where food is prepared, or equipment, utensils or containers are washed.

Section 5-319. Lavatories.

(a) All eating places shall be equipped with adequate toilets and lavatories for the employees and shall be conveniently located and accessible at all times.

(b) All lavatories shall be equipped with hot and cold or tempered running water, hand cleaning soap or detergent, and approved sanitary towels or other approved hand-drying services. Such facilities shall be kept clean and in good repair.

(c) Toilet rooms shall be kept in a clean condition, in good repair, well-lighted and ventilated to the outdoors. Doors of all such toilet rooms shall be tight-fitting and self-closing. Signs requiring employees to wash their hands after using the toilet shall be posted in all toilet rooms. When toilet facilities are provided for patrons, such facilities shall be maintained in a sanitary condition at all times.

Section 5-320. Common towels or drinking containers prohibited.

Use of common towels and drinking containers is prohibited. No operator of any eating place, and any catering establishment, or establishments preparing food for vending machines dispensing foods other than in original sealed packages shall provide for use, or allow to be used any common drinking container or any common towel by his employees or the public.

Section 5-321. Sewage or refuse disposal not to create nuisance.

The method of final sewage or refuse disposal utilized in connection with the operation of any eating place, and any catering establishment, or establishments preparing food for vending machines dispensing foods other than in original sealed packages, shall be such as not to create a nuisance.

Section 5-322. Compliance with State plumbing and sewage laws.

Proprietors of eating places and any catering establishments, or establishments preparing food for vending machines dispensing foods other than in original sealed packages shall comply with the State laws and regulations regarding the installation of plumbing and disposal of sewage.

Section 5-323. Special requirements for mobile food service units.

(a) Mobile food service units shall be licensed in accordance with the provisions of this Article. Each unit shall be licensed to sell and dispense only such items as are listed in the application and for which the unit is properly equipped to dispense. In no event shall a license granted to any mobile food service unit be valid to permit operation or sales within a Two hundred (200) foot distance from any licensed food service establishment within the City without express written permission of that establishment. This limitation shall not apply to those mobile food service units located in the historic district as defined in the Land Use Code. The location of

those units shall be in accordance with the requirements of Section 5-94, with the location approved by the Sidewalk Vendors' Licensing Committee. For purposes of applying the footage distance from any licensed food service establishment, the distance shall be measured from the property line of the licensed food service establishment.

(b) Special structures or units in a temporary or permanent manner shall not be built in the vicinity of a mobile food service unit.

(c) There shall be available to each mobile food service unit either at the service site or at its parking site, adequate facilities consisting of a sink with running hot and cold water for the washing of equipment and utensils used in connection with the service of food by the mobile food service unit.

(d) All mobile food service units in which food is prepared shall be equipped with a water tank having a holding capacity of not less than ten gallons and provided with a spigot containing water. Such tank shall be easily removable for cleaning and sanitation after each day's use. Water supply shall be used for hand washing and minor cleaning purposes only. This subsection shall not apply to those mobile food service units preparing only hot dogs.

(e) Any liquid waste from a mobile food service unit shall not be allowed to run on the ground. Mobile food service units must have a holding tank for the accumulation of liquid waste with a capacity of not less than the total capacity of the potable water tank.

(f) Those mobile food service units which are vehicular in nature and which are capable of being driven shall have the driver's compartment separated from the food preparation, service or storage areas by complete partition or adequate screening. No food or food containers or utensils shall be kept in the driver's compartment.

(g) Mobile food service units handling only pre-wrapped or pre-packaged foods, which do not require further preparation by the mobile food service unit operator, need not comply with the foregoing provisions requiring a water supply and a separate driver's compartment.

(h) Only single service containers and eating and drinking utensils shall be provided to the customers of a mobile food service unit. Such containers and utensils shall be dispensed directly by the proprietor or employee.

(i) There shall be adequate refrigeration and storage space provided in each mobile food service unit that prepares or serves potentially hazardous foods.

(j) All containers in which food is placed or stored shall be covered except as necessary for service to customers.

(k) All mobile food service units shall provide a trash container for paper and other refuse. This container shall be covered.

(l) The operator of a mobile food service unit is required to handle all food material which is not prepackaged for service with tongs or other utensils so as to avoid contact with said food. The operator shall be required to have clean garments and to have present on the unit a handwipe or other similar item for handwashing and cleansing.

(m) Mobile food service unit operators must further comply with the other sections of this article insofar as they are applicable to this type of preparation and service of food.

(Ord. 4/5/81; Ord. #87-18 9/16/87)

Section 5-324. Additional special sanitary requirements for catering establishments.

(a) Containers. All containers used to store, keep or hold food and/or drink for transportation from any caterer's premises to any site designated by the customer for consumption, shall be of the following approved type:

(1) Bulk containers and single service containers shall be leak-proof, and each provided with an adequate type of cover which will prevent the contents from spilling over and from being contaminated while in transit.

(2) Any reusable container used in the transportation of food shall be easily cleanable and capable of being sanitized.

(3) Containers shall not be composed in whole or in part of any poisonous or deleterious substance which may result in the contamination of the contents injurious to health.

(b) Vehicles. All vehicles used by the caterer for the transportation of food or food products shall be constructed, operated and maintained so as to protect their contents from contamination.

Section 5-325. Outside food service.

(a) All food in the service area will be protected to the extent that all containers of food will be covered.

(b) There will be no presetting of tableware or placemats. This is to be done only when the table is occupied and only after the table has been wiped off.

(c) No table with storage or waitress station will be allowed out of doors.

(d) After the meal is completed and customers have vacated, the table or eating area shall be immediately cleaned of soiled tableware and wiped off.

(e) All garbage containers in the outside storage area are to be constantly covered.

(f) No animals shall be allowed in the food service area except as provided in Section 307 of this Article.

#### Section 5-326. Types of victualers licenses; fees.

The various classifications of victualers licenses and fees corresponding to those classifications shall be set by the City Council of the City of Bath by resolutions. The City Council shall have the further power to adjust the fees and classifications, by resolutions, as from time to time may be necessary or appropriate.

### RESOLUTION RULES AND REGULATIONS GOVERNING USAGE OF PARK AREAS

The following rules and regulations are promulgated by the City Council of the City of Bath to govern the use of City Parks for special purposes by organizations or individuals:

1. Application Application will be made to the Supervisor of Cemeteries and Parks for the use of any City Park area. Such application shall be in a format acceptable to the superintendent and shall contain at least the following information:

- (a) Name of the group, organization or individual applying for use of the park;
- (b) Name, address and telephone number of a person duly authorized by the organization or group to apply for use;
- (c) Type of use applied for;
- (d) Duration of use;
- (e) Whether there is any necessity for electrical service and/or water hook-up for the proposed use;
- (f) Such other and further information as superintendent deems necessary and appropriate.

2. Charges Charges for the use of the park facility will be in accordance with the following:

(a) Non-profit Bath organizations or Bath individuals utilizing the park for a non-profit purpose at No Charge.

(b) Profit making organizations or groups of out of town non-profit corporations or individuals as follows:

\$10.00 per hour with a minimum charge of \$20.00 up to a maximum of \$50.00 per day.

(c) Any park usage which directly or indirectly results in a need for additional City services or personnel may require payment of an amount equal to the cost of such additional service or personnel. This may include, but is not limited to, traffic control, maintenance of order, placing or removal of barriers, etc. This amount shall be determined by the Department Head of the Department or Departments involved in providing these services and/or personnel and shall be reviewed by the Superintendent of Cemeteries and Parks and the City Manager. This charge is to be levied over and above any other fee or charge for park usage.

Such fees shall be payable in advance of use.

3. Administration The park usage shall be administered by the Superintendent of Parks and Cemeteries and he shall have full authority to grant or deny a particular organization, group or individual usage of City Parks. Any determination of usage made by the Superintendent shall be appealable to the City Council. The Superintendent shall have authority to grant usage for up to a maximum of Three (3) days. Any usage of the City Parks in excess of Three (3) days shall require prior approval of the Bath City Council.

4. Damage/Damage Deposit Each organization, group or individual shall assume full and complete responsibility for the condition of park upon the termination of their use and shall bear complete and full responsibility for the repairing of any damage to the park facility or any furnishings, equipment or appurtenances located therein. In instances where he deems it appropriate, the Superintendent shall have authority to require a damage deposit, said deposit to be in addition to any charges for actual use of the park. The cost to the City of Bath of repairing any damage may be deducted from any such damage deposit, and the user shall be responsible to the City for any cost of repair exceeding the amount of deposit.

5. Clean-up Each user, organization, group or individual shall be responsible for leaving the park in the same condition in which it found the park at the time of commencement of use. This specifically means that the user will be responsible for all clean-up activities. If the user does not sufficiently clean-up the facility after any function and any user who refuses or neglects to initiate and/or complete the clean-up, after being so notified by the superintendent, will be responsible to the City of Bath for a fee of \$15.00 per man hour for all clean-up activities conducted by the

Cemeteries and parks Department.

6. Electrical Service/Water Arrangements for electrical service and/or water, require the advance approval by the superintendent. The cost of any such service shall be borne exclusively by the user and the user shall hold the City harmless from any cost or liability arising therefrom.

7. Liability The City shall not in any event be liable for any injury or damage to any property or person happening on or about the City Park premises, nor for any injury or damage to the premises nor to any property of the user or any other person located therein. The user shall indemnify and save the City harmless from and against any and all liabilities, losses, damages, suits, penalties, claims and demands of every kind or nature, including reasonable counsel fees by or on behalf of any person, party or governmental authority whosoever, arising out of any accident, injury or damage what shall happen in, upon or about the park area or a common area, during the period of use.

8. Insurance The user in instances where the Superintendent deems it appropriate due to the nature of the use or intensity of the use, may be required to provide proof of liability insurance satisfactory to the Superintendent and the City Manager. State Law reference - Pool halls and bowling alleys, 8MRSA (1964) §1 et.seq.

#### ARTICLE 14. VENDING IN THE PUBLIC WAY (**Ord. 3/2007, 01/2023, 5/2024**)

Section 5-401. Purpose. The purpose of this Article is to regulate the use of the City's sidewalks and other public ways within the C-I, Downtown Business, Zoning District, for the purpose of barter, trade, exhibition, display or sale of goods, merchandise or food, in a manner that creates a diversity of products available in the downtown, in order to bring additional customers and patrons to the downtown area, to create a more festive downtown street atmosphere which will enrich the downtown's ambience and to do so in a manner that will not create any hazard to pedestrians or vehicles in the downtown area, and will be fair and equitable to permanent vendors and merchants located and doing business in the downtown area.

Section 5-402- Definitions.

MOBILE FOOD VENDOR. Any business which sells edible goods from a nonstationary location within the City. A mobile food vendor shall include, but not be limited to:

1. MOBILE FOOD TRUCK— A self-contained motorized unit selling items defined as "edible goods".
2. SIDEWALK VENDING UNIT— A vending unit which is pulled by a motorized unit or **pushed by hand** and has no power to move on its own.

Section 5-402. License Required. No person or business entity may sell, demonstrate, distribute samples of, or solicit or take orders for goods; sell or offer to sell, display for sale, demonstrate or distribute samples of or soliciting or taking orders for any food, beverages, or services, in any street or public place, nor shall any artist who manually paints, sketches or draws on plain surfaces whose work is for sale to the public, conduct such activities without first having procured a license under the terms and conditions of this Article, from the City Codes Enforcement Office. The Codes Enforcement Officer, with approval of the Sidewalk Vending Committee City Council Representative, can approve limited duration sales by nonprofit organizations that may or may not comply with the standards in this ordinance.

Section 5-403 Designated License Area. The area to which the provisions of this Article 14 apply, shall be limited to the public sidewalks, streets, alleys, or any other City owned property within the C-1, Downtown Business, Zoning District.

Section 5-404. Location of Designated Areas.

A. Permanent Locations.

1. The following shall be designated as permanent sidewalk vendor sites:

Elm Street Plaza

Waterfront Park Area (2 sites)

Customs House

2. The following shall be designated as permanent mobile food truck vending sites: The four southern-most parking spaces located on the Easterly side of Commercial Street adjacent to the Riverwalk Southern Terminus/Guildford Lot. The spaces may be used by licensed Mobile Food Truck Vendors on a first come, first served, basis. There shall be a maximum of 10 Mobile Food Truck Licenses issued per season.

B. Additional Locations.

The Sidewalk Vending Committee shall meet and determine whether an additional requested location may be designated if found to be in accordance with the provisions of this Ordinance.

Section 5-405. Location Restrictions. Each permanent location, each additional designated location and locations approved for operators will only allow use of a maximum of forty percent (40%) of the width of the sidewalk and must leave an unoccupied width of at least four feet (4') for the full frontage of the designated area where the street vendor unit or display is located. Mobile food vending in public parking spaces must not impede vehicular or pedestrian traffic. Vendors who are not



operators, may be licensed for additional designated locations that are no closer than two hundred feet (200') from a retail establishment selling similar goods, and if selling food, shall be at least two hundred feet (200') from any restaurant or other food service establishment. All food street vendor locations shall be at least two hundred feet (200') from any other food service vendor location selling the same or similar goods or food items. These footage separation requirements may be waived by the Sidewalk Vending Committee if it can be demonstrated by the applicant that the proposed vending does not present unreasonable competition with businesses within the separation area.

#### Section 5-406. Classification of Locations.

##### A. Operators.

1. Restaurants. The operators of restaurants may receive permits to serve customers at tables on the sidewalk area in front of their restaurants. No location approval shall be required but a license from the Codes Enforcement Officer will be required prior to occupying the location.

2. Retail Establishments. Persons or business enterprises who are operators of retail establishments, may receive permits to place any goods or merchandise on a location in front of their establishment. No location approval shall be required but a license from the Codes Enforcement Officer will be required prior to occupying the location.

##### B. Street Vendors.

1. Street vendors who are not owners or tenants, may occupy any other designated location approved by the Sidewalk Vending Committee that is not allocated to owners or tenants.

Section 5-407. Sidewalk Vending Committee. A Sidewalk Vending Committee consisting of one (1) member of the Bath City Council, one (1) downtown food service operator, one (1) downtown retail merchant, and one (1) at large member appointed by the City Council, Main Street Bath President or designee, the Codes Enforcement Officer, and the City Planner, shall be established. The Bath City Council member shall be appointed for a one (1) year term, and the downtown food service operator, downtown retail merchant, at large member, and Main Street Bath President or designee shall be appointed by the City Council, for three (3) year terms. This Committee shall designate appropriate additional locations for sidewalk vending and shall review and determine the qualifications of applicants for designated locations and refer same to the Codes Enforcement Office for the issuance of licenses.

Section 5-408. License Period and Time of Operation. Licenses issued to vendors or to owners or tenants, shall be for the period beginning on May 1<sup>st</sup> of each

year and extending through April 30<sup>th</sup> of the following year. The time of operation shall be no earlier than 6:00 a.m. and all operations shall cease by 10:30 p.m. and all vendor units must be removed from public ways and public property by 11:00 p.m.

Section 5-409. Transferability; License Limitations. Any license issued to a street vendor or to a person or business entity conducting street vending in a designated location, shall be specific to that business enterprise and location and shall not be transferable to any other person or business entity. The license shall be for the specific food items or goods and merchandise specified in the license and for no other purpose.

#### Section 5-410. Applications.

A. Submission - Date. Applications shall be submitted to the Bath Codes Enforcement Office on forms supplied by that office no earlier than April 1<sup>st</sup> of each year.

B. Contents. The application shall contain at least the following information:

The name, address, and telephone number of the applicant.

The proposed street or City location.

The type of food or goods and/or merchandise proposed to be bartered, traded, exhibited, displayed, or sold.

Proposed days and times of operation.

A photograph or sketch or written description of the cart, vehicle, stand, booth or other equipment used for the vending enterprise.

Proof of liability insurance as required under Section 5-413 below.

A color photograph or color drawing of the unit or display.

A detail of signage accompanying the unit or display.

A list of all other licenses or permits that may be required in order to establish the sidewalk vending use.

Such other information as may be necessary to demonstrate that the approval criteria will be met.

C. Approval Criteria.

The location of the vending will not hamper sight distance for either vehicular or pedestrian traffic.

The cart, vehicle, stand, booth, or the like from which the goods or merchandise will be bartered, traded, exhibited, displayed, or sold is attractive, well maintained, and compatible in a design sense with the location in which it is proposed.

The applicant, if a repeat applicant, has demonstrated the ability and willingness to operate the vending business well and in conformance with the requirements and purpose of this Section.

The location does not block a walkway, entryway, access drive, or driveway to any business.

The location does not hamper access for emergency vehicles or personnel.

The location and physical characteristics of the site will not create a hazard to public health, safety, or the general welfare.

The vendor has received all other required State or local permits for conduct of the vending operation. If all other required permits have not been received, then any approval issued for a sidewalk vendor's license, shall be contingent upon receipt of all other required licenses and permits.

The Committee may attach such reasonable conditions to their approval as may be necessary to carry out the purposes of this Article, to protect the public, or to assure compliance with the licensing terms and requirements.

Section 5-411. Longevity. Where an applicant is applying for the same designated location as has been licensed to that applicant in the previous year, the Codes Enforcement Officer can approve the application without committee review if the vendor operated in conformance with the ordinance requirements the previous year. If the vendor did not operate per the ordinance requirements the previous year, committee review is required for the new application. If there is more than one application for the same vending location, the committee shall decide whether to approve the vendor from the previous year or not.

Section 5-412. Inspection and Approval. Prior to any sidewalk. Or mobile ford truck vending unit being placed into operation, it shall be inspected by the City Codes Enforcement Officer for compliance with the requirements of this Article, to determine that the unit has been accurately described in the application and that the goods, merchandise or food being sold from the unit correspond to the items listed in the application.

Section 5-413. Liability Insurance. No street vendor's license shall be issued without an applicant first filing with the Codes Enforcement Office a certificate, in a form satisfactory to the City Solicitor, evidencing public liability insurance coverage in an amount not less than the maximum liability under applicable law and which names the City as additional insured. The certificate shall also provide for notice to the Codes Enforcement Officer, not less than thirty (30) days prior to any cancellation of insurance. The insurance will be maintained by the licensee at all times while engaged in street vending. The insurance shall be placed with a carrier that has been approved to do business in the State of Maine.

Section 5-414. Design Standards.

A. Sidewalk Vending Units: All sidewalk vending units shall be subject to the following design standards:

1. No more than four feet (4') in width, six feet (6') in length, exclusive of fenders, tongue, 9or handles, and six feet (6') in height.
2. Able to transport and display all of the vendor's goods or food

exclusive of drinks, which can be stored in a separate container or containers.

3. Any advertising on the unit shall be limited to the vendor's business or products.
4. The unit shall be readily moveable.
5. The unit may not be powered, nor shall it use a generator of any type.

B. Mobile Food Truck: All mobile food truck vending units vending in a public way shall be subject to the following standards:

1. The mobile food truck must contain all equipment needed for the preparation of food within the mobile vending unit including trash and recycling receptacles.
2. The mobile food truck must keep the site clean of litter within a radius of thirty feet of the location and shall provide a receptacle immediately adjacent to the unit for associated trash. Trash and trash receptacles shall be removed each evening and trash shall not be placed in City trash cans.
3. The mobile food vending unit must not have any lighting except localized lighting used on or in the mobile unit for the purpose of food preparation and menu illumination.
4. Advertising for the unit shall be limited to the vendor's business or products and shall meet the requirements of Section 5-40.1 of the Code of the City of Bath.
5. The unit must be registered by the Maine Department of Motor Vehicles and licensed by the Maine Department of Health and Human Services as well as must be inspected by the Code Enforcement Officer of the City of Bath.
6. Mobile food units and any associated equipment must be maintained and operated in a safe, working condition at all times and in a manner which minimizes noise, exhaust and odors impacting the public and surrounding public and private properties so as not to create a public or private nuisance. The operation of any mobile food unit which fails to meet the standards of safety established by the laws of the State or the City, operates in a manner that creates a threat to the health, safety, and welfare of the public, or fails to obey a lawful order of law enforcement or licensing personnel, shall be discontinued until such time as the deficiency is eliminated.

Section 5-415. Abandonment. The vendor shall continue to use the site at least three (3) days per week, during the months of June, July, and August, unless prohibited by weather conditions, or the site shall be considered to be abandoned and will be eligible for allocation to another vendor. This section applies to Sidewalk Vending Units only.

Section 5-416. Conduct - Prohibitions.

- A. The location and operation shall not restrict ingress or egress of pedestrian traffic to abutting commercial locations.
- B. The location and operation shall present no hazard to pedestrian or vehicular traffic.
- C. The operation and location shall not restrict access by emergency vehicles.
- D. Loading, unloading, set up and removal of the unit shall be accomplished in no more than thirty (30) minutes.
- E. The unit shall not be left unattended.
- F. The vendor shall keep the site clean of litter within a radius of thirty feet (30') of the location, and if serving food, shall provide a receptacle immediately adjacent to the unit for associated trash. The trash and trash receptacle shall be removed each evening at the same time the unit is removed from the location. This trash shall not be placed in City trash cans.
- G. The vendor shall not sell any food; goods or merchandise not specified in their license.
- H. The vendor shall not operate in a manner that would constitute an unfair or deceptive trade practice under state law.
- I. The vendor shall not make or cause noise in violation of city noise restrictions.
- J. The vendor shall not alter, change, or add to the unit as approved except with the permission of the committee.
- K. The vendor shall not verbally solicit business.

Section 5-417. Waivers. The provisions of this Article may be waived or modified by the Bath City Council for special events and holiday celebrations.

Section 5-418. Fees. Processing fees and license fees shall be set by resolution of the Bath City Council and shall be submitted with the Application.

**(3-7-07) NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Bath that a processing fee of Fifty Dollars (\$50.00) shall accompany the submission of any application for a sidewalk vending license. Upon granting of the license, then a license or spot fee shall be assessed which shall be as follows:

\$200.00	<i>Elm Street Location</i>
\$200.00	<i>Customs House Location</i>
\$200.00	<i>Waterfront Locations</i>
\$200.00	<i>All Other Locations</i>

The application fee for mobile food vending license is \$50.00. Upon granting of the license, then a license/spot fee shall be assessed which shall be as follows:

\$200.00	Commercial Street Location
\$200.00	All Other Locations

Section 5-419. Enforcement. This Article is enforced by the City Codes Enforcement Officer.

Section 5-420. Violations - Remedies. Upon violation of any of the terms or conditions in this Article or any of the licensure requirements, the Codes Enforcement Officer shall have all of the remedies available as in any codes enforcement action, including, but not limited to, the assessment of penalties, not to exceed two hundred fifty dollars (\$250.00) for the first violation, and not to exceed five hundred dollars (\$500.00) for any second or subsequent violation, and the ability to suspend a license, and the ability to cause removal of the vending unit. A license may be revoked by a majority vote of the Sidewalk Vending Committee, after hearing at which the licensee shall have an opportunity to demonstrate why the revocation should not occur. The revocation shall be based upon violation of any of the terms, conditions, criteria, or prohibitions at set forth in the Ordinance. Any suspension imposed by the Codes Enforcement Officer shall remain in effect until a determination by the Sidewalk Vending Committee.

Section 5-421. Appeal. Any vendor may appeal any decision of the Sidewalk Vending Committee, or the Codes Enforcement Officer rendered under this Article to the City of Bath Zoning Board of Appeals, by filing a notice with the Codes Enforcement Office, stating the decision being appealed from and the grounds for the appeal. Such an appeal must be filed within fourteen (14) days of the decision.

## **ARTICLE 15- ADULT USE AND MEDICAL MARIJUANA BUSINESS LICENSING**

### **Section 5-501 License Required**

- A. State license. A marijuana establishment shall not operate until it is licensed by the state licensing authority pursuant to the requirements of 28-B M.R.S § Chapter 1, as may be amended. An applicant may not operate a marijuana establishment without a state license and all other necessary local approvals.
- B. Local license. A local license issued under the provisions of this article is required for any marijuana cultivation facility, marijuana products

manufacturing facility, marijuana testing facility, dispensary, medical marijuana storefront or marijuana retail store.

## **Section 5-502 Licensing procedures**

### A. Licensing procedures

- a. The initial application for a marijuana establishment license shall be processed by the City Clerk but reviewed and considered by the City Council for approval. Applications shall be made on a form prepared by the city and must include all information required by Section 5-504 and of the form.
- b. Public Hearing. A public hearing on an application for an initial license shall be scheduled after receipt of a completed application pursuant to this code. The City Clerk shall post and publish public notice of the hearing in a newspaper of general circulation not less than seven days prior to the hearing.
- c. A renewal application shall be subject to the same review standards as applied to the initial issuance of the license application, however a renewal application may be approved by City Staff pursuant to Section 5-505

### B. Responsibilities and review authority

- a. The City Clerk shall be responsible for the initial investigation of the application to ensure compliance with the requirements of this Article. The City Clerk may consult with other City Departments and any appropriate State Licensing Authority as part of this investigation.
- b. The City Council shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this Chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- c. No local license shall be granted until the Police Chief, Fire Chief, and Code Enforcement Officer have all made a positive recommendation upon the Applicant's ability to comply with this article. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or State law, it shall be the duty of the Applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the city authorized to make the inspection at any reasonable time that admission is requested.

## **Section 5-503 Licensing Fees**

The City Council shall have the authority to set license fees and to set a limit to the number of licenses granted to marijuana establishments. Fees for a local license shall be as set forth by the City Council and shall be paid annually. The City Council shall not grant more than the allowable licenses for any one particular type of marijuana establishment as follows:

- A. Medical Marijuana Storefront or Dispensary- Not more than three (3) active licenses allowed
- B. Marijuana Store (Adult Use)- Not more than three (3) active licenses allowed
- C. Marijuana Manufacturing Facility- Not more than one (1) active license allowed
- D. Marijuana Testing Facility- Not more than one (1) active license allowed
- E. Marijuana Cultivation Facility- Not more than two (2) active licenses allowed

A renewal of an active license holder shall be considered as an action to maintain their status as an active license. Once the limit on a particular marijuana establishment has been reached no additional licenses shall be granted with the exception of a renewal of an active license in good standing in accordance with the provisions below.”(8/3/2022)

### **Section 5-504 Application**

- A. Application required. Each applicant for a marijuana business license shall complete and file an application on a form prescribed by the City Clerk, together with the license fee.
- B. Each application shall include:
  - a. A copy of the applicant’s state license application and supporting documentation as filed with the State Licensing authority, and amended thereto.
  - b. Evidence of all state approvals or conditional approvals required to operate a Marijuana Establishment, including, but not limited to, a State License as defined by this Article, a state retail certificate, or a State health license.
  - c. If not included in the applicants state license application, attested copies of the articles of incorporation and bylaws if the applicant is a corporation, operating agreement if the applicant is a limited liability



- company, evidence of partnership if the applicant is a partnership, or articles of association and bylaws if the applicant is an association.
- d. If not included in the applicant's state license application, an affidavit that identifies all owners, officers, members, managers, or partners of the applicant, their places of residence at the time of the application and for the immediately preceding three (3) years.
  - e. If not included in the applicant's state license application, a release authorized by 16 M.R.S. § 620 (6), as may be amended, with the application for each applicant and for each officer, owner, member, manager, or partner of the applicant seeking local license.
  - f. Evidence of all land use approvals or conditional land use approvals required to operate a marijuana establishment pursuant to the Land Use Code, including, but not limited to, a building permit, site plan approval, or certificate of occupancy.
  - g. Evidence of all other local approvals or conditions approvals required to operate a marijuana establishment pursuant to the land use code and city ordinances including, but not limited to a food license or victualer's license.
  - h. A description of the premises for which the local license is sought, including a plan of the premises.
- C. Complete application. In the event that the City Clerk determines that a submitted application is not complete, the City Clerk shall notify the applicant within ten (10) business days that the application is not complete and shall inform the applicant of the additional information required to process the application.

### **Section 5 -505 License Expiration and Renewal**

- A. Each local license issued shall be effective for one year from the date of issuance.
- B. Renewal applications must be submitted thirty days prior to the date of expiration of the annual local license. An application for the renewal of an expired license shall be reviewed by the Code Enforcement Officer, Fire Chief, Police Chief, and City Clerk. The renewal may be approved by city staff if the applicant is deemed to be in good standing with the articles of this ordinance and all other applicable local and state ordinances and licensing requirements. The applicant for renewal may be elevated to review by the City Council if any member of staff deems it needs additional review.

### **Section 5-506 Denial, Suspension, or Revocation of License**

- A. In addition to the provisions set forth in Section 18.05 of this chapter, the following applies:
- a. A local license under this article shall be denied to the following persons:
    - i. A person who fails to meet the requirements of this article. Where an applicant is an entity rather than a natural person, all-natural persons with an ownership interest must meet these requirements.
    - ii. An applicant who is not at least twenty-one years of age
    - iii. A person who has had a license for a marijuana establishment revoked by the City or by the State
    - iv. An applicant who has not acquired all necessary state approvals and other required local approvals prior to the issuance of a local license.
    - v. An applicant who has been convicted of a criminal violation arising out of operation of a Marijuana Establishment.
  - b. The City may suspend or revoke a license for any violation of this section or any other applicable building-related and life safety code requirements. The city may suspend or revoke a license if the licensee has a State license for a marijuana establishment suspended or revoked by the State. The licensee shall be entitled to notice and a hearing prior to any suspension or revocation.

### **Section 5-507 Operating requirements**

The licensee shall comply with all of the following requirements during the term of the Local License:

- A. Display of License. The current local license shall be displayed at all times in a conspicuous location within the license premises.
- B. Location. All licensed premises shall be permanent locations. Licensees shall not be permitted to operate a marijuana establishment in a temporary location.
- C. Compliance with other laws. A marijuana establishment shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing marijuana establishments, the stricter law or regulation shall control.

### **Section 5-508 Transfer of ownership and change of location**

Licenses issued under this Article are not transferable to a new owner. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a

different location. A licensee who seeks to operate in a new location shall acquire a new local license for that location.

### **Section 5-509 Appeals**

- A. Any appeal of a decision under the provisions of this Section shall be made to the City Council. The City Council shall conduct a de novo hearing in which it will hear evidence on the application and make its own findings of fact and conclusions of law on the issue of whether the application meets the requirements of this Article.
- B. Any appeal of a decision of the City Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

### **Section 5-510 Violations and Penalties**

The operation of any marijuana establishment without the required local license or in violation of the requirements of this article shall be a violation of this article. Violations shall be subject to fines as set forth in this section. Each day of violation shall constitute a separate violation. Any such fine may be in addition to any suspension or revocation imposed in accordance with the provisions of this article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its attorney's fees.

### **Section 5-511 Severability**

The provisions of this article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

### **Section 5-512 Other Laws**

Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S. § Chapter I, as may be amended. In the event of a conflict between the provisions of this article and the provisions of the Act or any other applicable State or local law or regulation, the more restrictive provision shall control.