

Chapter 9

LICENSE AND REGULATION OF OCCUPATIONS AND BUSINESSES*

* **Cross References:** Administration, Ch. 2; finance department created, § 2-291 et seq.; weights and measures department, § 2-411 et seq.; buildings and building regulations, Ch. 4; health, Ch. 7; nuisances, § 7-16 et seq.; housing, Ch. 8; mobile homes and manufactured housing and mobile home parks, Ch. 10; privately operated solid waste disposal facility, § 12-76 et seq.; streets, sidewalks and other public places, Ch. 13; zoning and land use, Ch. 17.

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privately operated solid waste disposal facility, § 12-76 et seq.; streets, sidewalks and other public places, Ch. 13; zoning and land use, Ch. 17.

ARTICLE I.

IN GENERAL

Sec. 9-1. Fireworks prohibited.

(a) The sale, use, possession, or display of Class "C" fireworks except caps for toy cap pistols in accordance with the provisions of RSA 160-A is prohibited. No permits shall be granted except to the city for programs and displays under its control, for the sale, purchase, possession, use or explosion of Class "C" fireworks.

(b) This section shall be constructed consistently with the Fire Prevention Code adopted in section 4-2 for the purposes of licensing and establishing rules for public displays.

(c) Any individual or business found in violation of this section may be made punishable by a fine of not more than one thousand dollars (\$1,000.00) per day and not less than one hundred dollars (\$100.00) per day. It shall be prima facie evidence if the individual or business has Class "C" fireworks on their person or premise and/or conducts a sale of these prohibited items.

(Ord. of 7-5-88)

Cross References: Fire prevention and protection, Ch. 6.

Secs. 9-2--9-25. Reserved.

ARTICLE II.

AMUSEMENTS AND ENTERTAINMENT*

* **State Law References:** Licensing shows, open-air meetings, billiard tables and bowling alleys, RSA 286:1 et seq.

DIVISION 1.

GENERALLY

Secs. 9-26--9-35. Reserved.

DIVISION 2.

AMUSEMENT FACILITIES AND DEVICES

Sec. 9-36. Definitions.

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

Amusement facilities shall mean and include any pool room, billiard room, shooting gallery or game room containing four (4) or more amusement devices, bowling alley, penny arcade, and any other amusement facility other than shows and exhibitions as defined in section 9-56.

Mechanical or electronic amusement devices shall mean and include, but not be limited to, any machine which, upon the insertion of a coin, trade-token or slug, operates or may be operated as a game or contest of skill or amusement of any kind, and which contains no automatic payoff device for the return of money, trade-token or slugs which makes no provision whatever for the return of money to the player. Such amusement devices may be used as a game of skill and amusement whereby the player initiates, employs or directs any force generated by the machine. Machines which are not intended for gaming or amusement, such as food, drink and musical machines, are excluded from this article. (Ord. No. 1982-1, § 9:301, 9-20-82)

Sec. 9-37. License required, application.

No person shall operate any amusement facility or mechanical or electronic devices in the city until a written application, specifying the places in which it is to be operated or kept, is first obtained from the city clerk, who shall have the authority to issue a license, provided:

- (1) The license application is a renewal; and
- (2) The building inspector has approved the amusement facility.

The building inspector may, at his discretion, request an inspection of the facility by the fire chief and health administrator if he deems it appropriate to do so. Licenses for new establishments shall not be issued by the city clerk until the application therefor has been approved by the city council. (Ord. No. 1982-1, § 9:302, 9-20-82; Ord. of 11-19-90; Ord. of 5-6-96(1))

Sec. 9-38. License fee; period.

(a) The fee for a license required by this division shall be fifty dollars (\$50.00) for each amusement facility or ten dollars (\$10.00) for each mechanical or electronic amusement device up to three (3). The license period shall commence on the first day of May and continue for one (1) full year or any part thereof.

(b) Nonprofit organizations (as defined by the secretary of state) with three (3) or less amusement devices will be exempt from making application for such license or remitting a fee. (Ord. No. 1982-1, § 9:302, 9-20-82)

Sec. 9-39. Qualifications for license.

No license shall be issued under this division except to a person of good character. Any person who shall be convicted within a year of gambling, or keeping a gambling house, or of the illegal sale of intoxicating liquors, or controlled drugs, or who shall without conviction thereof, show or display any lewd, indecent or immoral pictures in such place of business shall not be deemed a person of good character nor fit to conduct or be employed in such business. The continuance of such business of any such person shall be cause for the revoking and forfeiting of such license. (Ord. No. 1982-1, § 9:303, 9-20-82)

Sec. 9-40. Inspections.

Upon application for a license, the city clerk shall direct the building inspector to make an inspection of the building or the devices and the location where they will be kept during operation. Once the inspection is

complete, the building inspector shall contact the head of the police, fire and health departments to see if they have any objections as to the issuance of a license. A report shall be forwarded to the city clerk stating whether the establishment has passed necessary inspection. The building inspector may request the presence of other department heads during any of these inspections.

(Ord. No. 1982-1, § 9:304, 9-20-82; Ord. of 6-19-89; Ord. of 5-6-96(1))

Sec. 9-41. Revocation.

In addition to any penalty imposed, the mayor and council may revoke any license issued under this division for any violation of this division or of any ordinance pertaining to the conduct of such business.

(Ord. No. 1982-1, § 9:305, 9-20-82)

Sec. 9-42. Violation.

Any person violating any of the provisions of this division shall be punished by a fine not exceeding fifty dollars (\$50.00) for each offense.

(Ord. No. 1982-1, § 9:306, 9-20-82)

Secs. 9-43--9-55. Reserved.

DIVISION 3.

SHOWS AND EXHIBITS*

* **State Law References:** Showmen, RSA 286:1; theatrical performances, RSA 286:2.

Sec. 9-56. License required.

Any person desiring to hold a carnival or a circus within the limits of the city shall make written application to the city clerk, who shall have the authority to issue the required license, provided the sponsor or promoter of the carnival or circus is in full compliance with the provisions of RSA 105:9 and 105:9a and all other applicable state laws.

(Code 1977, § 9:201; Ord. of 11-19-90)

Sec. 9-57. License period, fee.

Theatres or places of amusement of a permanent character may be licensed for a period of twelve (12) months from the first day of May of each year. The sum of such yearly license shall be fifty dollars (\$50.00), payable six (6) months in advance. This license shall designate the location of the theatre or place of amusement, be made in the name of the proprietor or proprietors thereof, and shall not be transferable. The city clerk shall be authorized to issue the required annual license in cases of renewal applications only, provided the building inspector and the fire chief have inspected and approved the place of business. New applications shall be subject to the approval of the city council, prior to the issuance of such license by the city clerk, who shall have the written approval of the building inspector and fire chief before issuing such license. The business establishment shall also be in full compliance with the provisions of the N.H. Laws of 1964, Chapter 153 and all other applicable state laws.

(Code 1977, § 9:203; Ord. of 11-19-90)

Sec. 9-58. Transfer for new location.

If any person holding a license issued under this division shall desire to transfer to and carry on such business in other premises in the city than those designated in the original application and in the license, upon making and filing a new application the city clerk shall grant the same, subject to the same regulations and requirements as governed the original license.
(Code 1977, § 9:205)

Sec. 9-59. Revocation.

At any time after a license has been issued under this division to any person the same may be revoked and cancelled by the city clerk if the performances shall violate any of the criminal or moral statutes or ordinances, be conducted in a building which does not conform with the fire statutes, ordinances, or regulations of fire chief, or the place licensed be used for criminal or immoral purposes. But before any license is revoked or cancelled the holder shall be entitled to a hearing by the city council and to five-day notice thereof in writing, except that licenses of a temporary character may be revoked at any time by the city clerk without notice in his discretion.
(Code 1977, § 9:206)

Sec. 9-60. Boxing bouts or exhibitions.

It shall be unlawful for any person, club or association to engage in, promote and stage boxing bouts or exhibitions within the limits of the city unless such bouts or exhibitions shall be in full compliance with RSA Chapter 285:20 and any other applicable state law. The sponsor or promoter of such events shall apply to the city clerk who shall have the authority to issue the required license.
(Ord. of 11-19-90)

Editors Note: An ordinance adopted Nov. 19, 1990, amended the city's former Code by adding provisions to be included as § 9:100; such provisions have been codified herein as § 9-60 at the discretion of the editor.

Secs. 9-61--9-70. Reserved.

DIVISION 4.

DANCE HALLS AND SKATING RINKS*

* **State Law References:** Power to make by-laws, dance halls and skating rinks, RSA 31:39.

Sec. 9-71. License required.

No person shall keep or maintain a hall for dancing or skating purposes within the limits of the city, except for private use, unless a license shall have first been obtained from the city clerk, who shall have the authority to issue such license, provided the person is in compliance with RSA Chapter 105:9a as well as with Chapter 153 of the N.H. Laws of 1985, and all other applicable provisions of the state law.
(Code 1977, § 9:401; Ord. of 11-19-90)

Sec. 9-72. Closing hour.

No dancing or skating shall continue in any premises licensed pursuant to this division after 2:00 a.m. (Code 1977, § 9:405)

Secs. 9-73--9-90. Reserved.

ARTICLE III.

EMERGENCY ALARM SYSTEMS

Sec. 9-91. Definitions.

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

Alarm user shall mean any person, group, organization, business, company or entity who has an emergency alarm system installed upon their premise, whether they own or lease said system, shall be considered the user for the purpose of enforcing this article.

Connected alarm system shall mean any fire or security alarm system user that requests their private alarm system be connected to the monitoring board at either the police department (security) or fire department (fire).

Emergency alarm system shall mean any conventional or state of the art electrical, electro-mechanical, electromagnetic, optical, or electronic warning system used to notify a person that an emergency situation is occurring including but not limited to fire, smoke, heat, water, medical, damage, entry security and other.

False alarm means the activation of an alarm system through mechanical failure, accidental tripping, misoperation, malfunction, misuse, or the neglect of the owner or lessee of an alarm system, or of his/her employee(s) or agents. Upon failure of the police or fire department to find any evidence of intrusion or other legitimate need or legitimate cause for activating an alarm system, a conclusive presumption of false alarm will be made. False alarm shall not include alarms caused by earthquakes, violent winds, or external causes beyond the control of the owner or lessee of the alarm system. Any person who maintains or has an alarm connected to the police or fire alarm system, to an alarm agent, alarm business or a person responding to audible or visual alarms which has caused any signal, message, or alarm to be transmitted or conveyed to the police or fire department either by direct telephone or other communication and which is proven to be a false alarm per the definition above, shall pay a false alarm charge to the city as stipulated below. (Ord. of 11-17-86, § 13:301; Ord. of 10-4-93)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 9-92. Registration required.

Any security or fire alarm user wanting to connect to either the police or fire department within sixty (60) days of having their system installed apply with the respective department for a registration permit at no cost to the application. Said registration shall be for information only. Any new security or fire alarm user wanting to connect to either the police or fire department shall within sixty (60) days of having their system installed apply with the respective departments for such permit. Such permit shall be issued by the office of the police chief or fire chief upon proper application. (Ord. of 11-17-86, § 13:302.1; Ord. of 10-4-93)

Sec. 9-93. Application and permit.

The police and fire departments shall develop an application and permit form requiring the alarm user to provide all of the necessary information about such system, the alarm user as well as authorized personnel and their telephone numbers, who will be available at any time to permit access to the premises in which the system is installed.

(Ord. of 11-17-86, § 13:303.1)

Sec. 9-94. Refusal, revocation of permit.

Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining a user's permit or renewal under this article, or while making a change thereto, shall be sufficient cause for refusal to grant or revocation of permit.

(Ord. of 11-17-86, § 13:303.2)

Sec. 9-95. Operational conditions and prohibitions.

(a) Any currently connected fire or alarm system user who does not apply for the permit as stipulated above shall be notified that they are in violation of this article and subject to being disconnected from the respective department.

(b) The use of tape dialer systems or other similar notification systems that reproduce a pre-recorded voice message indicating the existence of an emergency situation the alarm is designed to detect, and that automatically seizes any telephone line connected to the police and/or fire department, shall be prohibited. Any person responsible for the use of such alarm notification systems shall be guilty of a violation of this article.

(Ord. of 11-17-86, § 13:304.1; Ord. of 10-4-93)

Editors Note: The provisions of subsection (b) shall be effective as of July 1, 1994.

Sec. 9-96. Renewal.

Any fire or security alarm user wishing to maintain their connection with the respective department must pay their annual renewal fee and any and all charges created by their system's false alarms or face disconnection from the respective department.

(Ord. of 11-17-86, § 13:304.2)

Sec. 9-97. Fees and charges generally.

A schedule of alarm user permit fees shall be established for police and fire connected alarm systems as follows:

		Police	Fire
(1)	Year 1, per system	\$40.00	\$ 0.00
(2)	Annual renewal, per system	20.00	0.00
(3)	False alarms		
	Police, after three years, per alarm	50.00	
	Fire, after five years per chief, per alarm		50.00

(4) Any alarm user, except local government, shall be subject to the above fee schedule.

(5) All permits shall be renewable on or before January first.
(Ord. of 11-17-86, § 13:305.1; Ord. of 10-4-93)

Sec. 9-98. Charges for excessive false alarms.

Any alarm user having an alarm system designed and installed whether the alarm system is connected or not and which a person or such alarm system transmits or conveys a signal, message or notice to either the police or fire department which results in a false alarm shall pay to the city a charge for each and every false alarm to which the police or fire department responds in excess of the number of false alarms permitted as stated below:

- (1) The alarm user of any alarm system shall be assessed, subject to the final decision of the police or the fire chief, a service charge of fifty dollars (\$50.00) for each false alarm transmitted by such system after three (3) false alarms for security systems requiring police response and five (5) false alarms for fire connected systems in a calendar year where such false alarm results in a response by the police or fire departments.
- (2) Failure to pay such false alarm service charge in thirty (30) calendar days of notice shall subject such alarm user to suspension of the alarm user's permit as prescribed in sections 9-95, 9-96 and 9-99.
- (3) An alarm user may appeal false alarm service charges in writing to the police chief or fire chief within ten (10) days after receipt of the notice of penalty. (Ord. of 11-17-86, § 13:305.2; Ord. of 10-4-93)

Sec. 9-99. Revocation, disconnection and reconnection.

(a) The police chief or fire chief upon notification to him that their department has responded to the maximum number of false alarms from a permittee in a calendar year shall place the permittee or property owner on notice indicating the false alarm history and necessary action to rectify the problem.

(b) If after due notice and hearing the marshal or chief determines, in his sound judgment, that the alarm user will not undertake reasonable action to eliminate the cause of such false alarms or that the alarm user is not able to take such reasonable action, he may revoke such permit and subject the system to being disconnected so long as the user has been properly notified in advance by return receipt letter five (5) days before the disconnection.

(c) The alarm user at a hearing shall have the right to present evidence, to cross-examine witnesses and to be represented by counsel. Such hearing shall be conducted in an informal manner, the rules governing courts shall not apply, and hearsay evidence shall be admissible.

(d) An alarm user whose permit has been revoked may reapply for a new permit. Upon such reapplication he shall prove to the marshal or the chief that the cause of prior revocation has been eliminated and/or corrected. Any person aggrieved by any decision of the chief or marshal made under the provisions of this article shall have the right of appeal to the police commission or the city manager (fire alarm systems). Such appeal shall be in writing and filed with the chief or the marshal within ten (10) days of the decision appealed from. The commission or manager shall set a date for hearing of the appeal and notify the appellant of the date of hearing, shall decide the matter within a reasonable time and notify the appellant thereof. The appellant shall have the right of appeal to the superior court for the county in accordance with existing law.

(e) An alarm user whose permit has been revoked may apply for a new user's permit as provided above, if the marshal or chief is satisfied that the user's system has been properly serviced and its deficiencies corrected. The marshal or chief may also impose reasonable restrictions and conditions upon the user before issuing a new user permit, and these restrictions and/or conditions shall appear on the permit and shall provide for automatic revocation on the occurrence of three (3) false alarms in the remaining permit year.

(f) In situations where a user permit is revoked under the conditions in subsection (e) above, there shall be no appeal to the marshal or chief and this revocation shall remain in effect for the remainder of the calendar year.

(g) The fee for reissuance of a user permit shall be fifty dollars (\$50.00).
(Ord. of 11-17-86, § 13:306; Ord. of 10-4-93)

Sec. 9-100. Violations.

Any alarm connected user who violates any provisions of this article shall be subject to the prescribed penalty charges and loss of services described herein.

Any person, group, organization, company or entity that violates subsection 9-95(b) of this article shall be guilty of a violation and subject to a fine of not more than one hundred dollars (\$100.00) for each day the violation exists and not to exceed five hundred dollars (\$500.00). (Ord. of 11-17-86, § 13:307; Ord. of 10-4-93)

Sec. 9-101. Limitation of liability.

(a) The city, the police department, the fire department and all of the employees, agents, representatives and officials of all of the aforesaid shall not be liable, in whole or part, for any defects, failures or inadequacies in the performance or operation of alarm devices, for any failure to respond upon receipt of an alarm, nor from the failure or neglect of any person in connection with the installation and operation of alarm devices or their components, the transmission of alarm signals and pre-recorded alarm messages or the relaying of such signals and messages. In the event the police or fire departments should find it necessary to disconnect an alarm device for whatever reason, no liability of any nature whatsoever shall result regardless of whether or not notice of the disconnection was given.

(b) The police and fire departments agree to restrict access to information about the user's alarm system as obtained by the application. Any person who is found to have purposely revealed the information contained in alarm user permit application or in correspondence or communications with an alarm user to any person for any purpose not related to this article or official law enforcement matters, or without the express written consent of the alarm user supplying such information, shall be guilty of a violation. Said violation shall carry a fine of not more than one hundred dollars (\$100.00) for each day not to exceed five hundred dollars (\$500.00) as per RSA 676:17.
(Ord. of 11-17-86, § 13:308)

Secs. 9-102--9-120. Reserved.

ARTICLE IV.

EMERGENCY MEDICAL SERVICES*

* **State Law References:** Emergency medical services, RSA 151-B:1 et seq.

Sec. 9-121. Definitions.

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

Aircraft shall mean and include rotary wing or fixed wing aircraft.

Ambulance shall mean any privately- or publicly-owned motor vehicle, aircraft or watercraft that is specially designed or constructed, and equipped, and is intended to be used for and is maintained or operated for the transportation of patients with emergency conditions, except any such motor vehicle, aircraft or watercraft owned by, or operated under the direct control of, the United States.

Attendant shall mean 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 at times.

Attendant-driver shall mean a person who is qualified as an attendant and a driver.

Driver shall mean an individual who drives or pilots an ambulance.

Health administrator shall mean the health administrator or other designated official.

Patient means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless.

Person shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose or organization of any kind, including any governmental agency other than the United States.

(Ord. No. 19, § 1, 12-18-78; Ord. of 5-6-96(1))

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 9-122. 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 for emergency ambulance purposes, and no individual shall drive, attend or permit it to be operated for such purposes 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 an 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 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 is operated from a location or headquarters outside of the city in order to transport patients who are picked up beyond the city limits to locations within 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 and attendant-driver and the person subject to the provisions of subsection (a) above in respect of such ambulance, hold currently valid licenses issued pursuant to this article.

(Ord. No. 19, § 2, 12-18-78)

Sec. 9-123. Application for ambulance service license.

Applications for ambulance licenses under this article shall be made upon such forms as may be prepared or prescribed by the health administrator and shall contain:

- (1) The name and address of the applicant and of the owner of the ambulance.
 - (2) The trade or other fictitious name, if any, under which the applicant does business and proposes to do business.
 - (3) The experience and training 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 or federal aviation agency license number (if applicable); 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 health administrator shall deem reasonably necessary to a fair determination of compliance with this article.
 - (7) An accompanying license fee of twenty-five dollars (\$25.00).
- (Ord. No. 19, § 3, 12-18-78; Ord. No. 20, § A, 2-19-79; Ord. of 5-6-96(1))

Sec. 9-124. Standards for licensing ambulance service.

- (a) Each ambulance shall, at all times when in use as such:
 - (1) Be suitable for the transportation of patients from the standpoint of health, sanitation and safety and be maintained in suitable premises;
 - (2) Be staffed by at least two (2) trained attendants, one (1) of whom may be the driver;
 - (3) Contain equipment and conform with the standards, requirements, and regulations provided for by the National Highway Traffic Safety Administration, Department of Transportation, Ambulance Design Criteria (KKK-A 1822 as amended) and include two-way communications, which equipment shall be in proper and good condition for such use;
 - (4) Currently comply with all applicable laws and local ordinances relating to health, sanitation, and safety;
 - (5) Be equipped with such lights, sirens, and special markings to designate it as an ambulance as may be prescribed in reasonable regulations promulgated by the health officer; and
 - (6) Be equipped with approved active restraints for the driver, a passenger in the front seat if such seat is provided and for patients and attendant(s) in the patient compartment.

(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 the approval of the health officer 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 health officer or his designated representative during usual hours of operation.

(e) No official entry made upon a license may be defaced, removed, or obliterated.
(Ord. No. 19, § 4, 12-18-78; Ord. No. 20, § A, 2-19-79)

Sec. 9-125. 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 for the payment of damages:

- (1) For injury to or death of individuals in accidents resulting from any cause for which the owner of such vehicle 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) For the loss of or damage to the property of another including personal property, under like circumstances.

In such sums and under such terms as may be required in regulations promulgated by the health officer.

(b) Such insurance policies shall be submitted to the health officer for approval prior to the issuance of each ambulance license. Satisfactory evidence that such insurance is at all times in force and effect shall be furnished to the health officer, in such form as he may specify, by all licensees required to provide such insurance under the provisions of this article.

(c) 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 non-payment of premium, failure to renew license at the end of the year, or any act or omission of the named assured. Such policy of insurance shall be further conditioned for the payment of any judgments up to the limits of such policy, recovered against any person other than the owner, his agent or employee, who may operate the same with the consent or acquiescence of the owner.

(d) 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 thirty (30) days written notice to the health officer and to the assured before any cancellation or termination thereof 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 ambulances 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.

(Ord. No. 19, § 5, 12-18-78)

Sec. 9-126. Investigation of applicant; inspections.

(a) The health administrator shall, within fifteen (15) days after receipt of an application for an ambulance license, cause such investigation as he deems necessary to be made of the applicant and of his proposed operations.

(b) The health administrator shall issue a license for a specified ambulance, to be valid for a period of one (1) year unless earlier suspended, revoked or terminated, when he finds:

- (1) That the public convenience and necessity require the proposed ambulance service.
- (2) That the applicant is a responsible and proper person to conduct or work in the proposed business.
- (3) That only duly licensed drivers, attendants, and attendant-drivers are employed in such capacities.
- (4) That all the requirements of this article and all other applicable laws and ordinances have been met.

(c) Prior to the issuance of any ambulance license hereunder, the health administrator shall cause to be inspected the vehicles, equipment and premises designated in each application hereunder, and determine compliance with the standards prescribed in sections 9-124 and 9-127, and with the regulations promulgated under such sections; provided, however, that under the terms of this article the health administrator shall have no responsibility, and shall exercise no authority, in connection with laws and ordinances of general applicability which deal with motor vehicle inspection.

(d) Subsequent to issuance of an ambulance license hereunder, the health administrator 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, including aircraft, inspection required to be made for ambulances or other motor vehicles, including aircraft, 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 an official certificate of motor vehicle inspection and approval nor excuse compliance with the requirements of any other applicable general law or ordinance.

(e) A copy of each initial, semi-annual or other ambulance, equipment and premises inspection report prepared by the health administrator shall be transmitted to the applicant or licensee to whom it refers. (Ord. No. 19, § 6, 12-18-78; Ord. of 5-6-96(1))

Sec. 9-127. Standards for ambulance equipment.

(a) Required equipment in each ambulance in use as such shall include, (unless a fully equipped rescue vehicle accompanies an ambulance on every accident call) equipment adequate for light rescue, protected extrication, two-way radio communications and emergency care including: assisted respiration, providing oxygen, controlling hemorrhage, splinting fractures, dressing of wounds, assisting in emergency childbirth, management of mentally deranged and monitoring blood pressure, pulse and respiration rates for all

ages including newborns, infants and children, all as required by RSA 151-B and rules promulgated thereunder.

(b) The health administrator is authorized and directed to promulgate regulation, after public notice and opportunity for public hearing, to implement the standards provided herein as to required equipment in ambulances. In determining the adequacy of equipment, the health administrator shall take into consideration the current list of essential equipment for ambulances*, adopted by the American College of Surgeons or its duly authorized committee on trauma. Each licensee of an ambulance shall comply with such reasonable regulation hereunder as may be promulgated by the health administrator and shall maintain in each such ambulance, at all times when it is in use as such, all such equipment as may be prescribed by the health administrator hereunder.

* Conforms with equipment requirement portions of Medical Requirements for Ambulance Design and Equipment (NAS-NRC, latest revision).

(c) All vehicles operating as ambulances on public streets of the city shall be licensed by the health administrator, each vehicle will be issued a license if conditions are met and maintained.

(1) An ambulance vehicle license is for the purpose of transporting emergency and other patients.

(2) There shall be at least two (2) licensed attendants in all ambulance vehicles, one (1) of whom may be the driver on all ambulance runs.

(3) Each ambulance vehicle shall comply with subsections (a) and (b) above.

(4) An accompanying license fee of ten dollars (\$10.00) shall be required.
(Ord. No. 19, § 7, 12-18-78; Ord. No. 20, § B, 2-19-79; Ord. of 5-6-96(1))

Sec. 9-128. Applications for drivers, attendants and attendant-drivers license.

Applications for drivers, attendants and attendant-drivers licenses hereunder shall be made upon such forms as may be prepared or prescribed by the health officer and shall contain:

(1) The applicant's full name, current residence, places of residence for three (3) years previous to moving to his present address, and length of time he has resided in the city.

(2) The applicant's age, marital status, height, color of eyes, and hair.

(3) Whether he has ever been convicted of a felony or misdemeanor, and if so, when and where and for what cause.

(4) The applicant's training and experience in the transportation and care of patients of all ages, including newborns, infants and children, and whether he has previously been licensed as a driver, chauffeur, attendant or attendant-driver, and if so, when and where, and whether his license has ever been revoked or suspended in any jurisdiction and for what cause.

(5) Affidavits of good character from two (2) reputable citizens of the United States who have personally known such applicant and observed his conduct during one (1) year next preceding the date of his application.

(6) Two (2) recent photographs of the applicant, of a size designated by the health officer, one (1) of which shall be attached by the health officer to the license.

(7) Such other information as the health officer shall deem reasonably necessary to a fair determination of compliance with this article.

(8) An accompanying license fee of five dollars (\$5.00).
(Ord. No. 19, § 8, 12-18-78)

Sec. 9-129. Standards for drivers, attendants and attendant-drivers license.

(a) The health administrator shall, within a reasonable time after receipt of an application as provided for herein, cause such investigation as he deems necessary to be made of the applicant for a drivers, attendants, or attendant-drivers license.

(b) The health administrator shall issue a license to a driver, attendant or attendant-driver hereunder, valid for a period of one (1) year unless earlier suspended, revoked, or terminated, when he finds that the applicant:

- (1) Is not addicted to the use of intoxicating liquors or other drugs as applied by the bureau of narcotics and dangerous drugs (BNDD) and is morally fit for the position;
- (2) Is able to speak, read and write the English language;
- (3) Has been found by a duly licensed physician, upon examination attested to on a form provided by the health administrator, to be of sound physique, possessing eyesight in one (1) eye of 20/20 vision, and the other or worse eye can be corrected to at least 20/40 vision, and free of physical defects or diseases which might impair the ability to drive or attend an ambulance; and
- (4) For each applicant for attendant or attendant-drivers license, that such applicant has a currently valid certificate evidencing successful completion of a course of training meeting or exceeding the requirements of the National Highway Traffic Safety Administration, U.S. Department of Transportation's "Basic Training Program for Emergency Medical Technicians, Ambulance," which the department of health, education, and welfare has accepted as its basic training program. Provided, however, that no one shall be licensed as a driver or attendant-driver unless he holds a currently valid chauffeur's license from the state, or FAA commercial license for aircraft pilots.

(c) A license as driver, attendant or attendant-driver issued hereunder shall not be assignable or transferable.

(d) No official entry made upon a license may be defaced, removed, or obliterated.
(Ord. No. 19, § 9, 12-18-78; Ord. of 5-6-96(1))

Sec. 9-130. Renewal of license.

Renewal of any license issued under this article, upon expiry for any reason or after revocation, shall require conformance with all the requirements of this article as upon original licensing.
(Ord. No. 19, § 10, 12-18-78)

Sec. 9-131. Revocation of license.

(a) The health administrator 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 provisions, standards or requirements of this article, or of regulations promulgated hereunder, or of any other applicable laws or ordinances or regulations promulgated thereunder, but only after warning and such reasonable time for compliance as may be set by the health administrator. Within thirty (30) days after a suspension, the licensee shall be afforded a hearing, after reasonable notice. The health administrator shall, within thirty (30) days after conclusion of such hearing, issue a written decision (which shall include written findings) as to the suspension of the license. Such written decision shall be promptly transmitted to the licensee to whom it refers.

(b) The initial, semi-annual or other ambulance, equipment and premise inspection reports of the health administrator 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, such ambulance shall cease operations as such and no person shall permit such ambulance to continue operations as such. Upon suspension, revocation or termination of a drivers, attendants or attendant-drivers 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. No. 19, § 11, 12-18-78; Ord. of 5-6-96(1))

Sec. 9-132. Obedience to traffic laws, ordinances and regulations.

(a) The driver of an ambulance, when responding to an emergency call or while transporting a patient, may exercise the privileges set forth in this section, but subject to the conditions herein stated, and only when such driver has reasonable grounds to believe that an emergency in fact exists requiring the exercise of such privileges.

(b) Subject to the provisions of subsection (a) above, the driver of an ambulance may exercise special privileges as shown in the uniform vehicle code and model traffic ordinance of the national committee on uniform traffic laws and ordinances.

(c) The exemptions herein granted shall apply only when such ambulance is making use of audible and visual signals meeting the requirements of law, ordinance, or regulation.

(d) The foregoing provisions shall not relieve the driver of an ambulance from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.
(Ord. No. 19, § 12, 12-18-78)

Sec. 9-133. Penalties.

(a) Any person violating, or failing to comply with, the provisions of section 9-122(a) and the applicable provisions hereof relating to the licensing of ambulances, shall be deemed guilty of a violation and upon conviction thereof shall be fined an amount not exceeding one hundred dollars (\$100.00), provided, further, that each day of violation shall be deemed a separate offense.

(b) Any person violating, or failing to comply with, any other provision of this article shall be deemed guilty of a violation and upon conviction thereof shall be fined an amount not exceeding one hundred dollars (\$100.00), provided, further, that each day of violation shall be deemed a separate offense.

(c) Each day that any violation of, or failure to comply with, this article is committed or permitted to continue shall constitute a separate and distinct offense under this section and shall be punishable as such hereunder; provided, however, that the court may, in appropriate cases, stay the cumulation of penalties. (Ord. No. 19, § 13, 12-18-78)

Secs. 9-134--9-150. Reserved.

ARTICLE V.

PEDDLERS, SOLICITORS, ITINERANT VENDORS*

* **Editors Note:** An ordinance adopted April 6, 1998, deleted §§ 9-151--9-159 and added new §§ 9-151--9-162. Formerly, such sections pertained to similar provisions and derived from Ord. No. 17, §§ I--IX, 11-6-78.

Cross References: Streets, sidewalks and other public places, Ch. 13.

State Law References: Hawkers and peddlers, RSA 31:102a.

Sec. 9-151. License required.

It shall be unlawful for any person, firm, corporation, partnership or other entity to engage in the business of peddler or vendor, as hereinafter defined, within the city without having first obtained a license for that purpose from the city clerk and having paid the required license fee, as hereinafter provided. License application forms shall be available at the office of the city clerk, Berlin, New Hampshire. (Ord. of 4-6-98)

Sec. 9-152. License exceptions.

The following shall be exempt from the licensing requirements of this article but shall comply with the requirements and restrictions of this article as listed below:

Any non-profit organization, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes when no part of the entities earnings benefit any private shareholder or individual.

(Ord. of 4-6-98)

Sec. 9-153. Definitions.

For the purposes of this article, the following definitions shall apply:

Motor vehicle. Any vehicle used for the displaying, storing, or transporting of articles offered for sale by a vendor which is or would be required to be licensed and registered by the department of motor vehicles.

Peddler. As used herein shall be defined as in RSA 320:1 and shall mean and include any person, as defined by RSA 358-A:1, either principal or agent, who: (I) Travels from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares, or merchandise, either on foot or from any animal, cart, stand, or vehicle; or (II) Travels from town to town, or place to place in the same town, offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs and improvements,

including contracts for the replacement or installation of siding on any residence or building; or (III) Keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise. The word "peddler" shall include "hawker" and "huckster".

Stand. Any table, showcase, bench, rack, pushcart, wagon, or any other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the department of motor vehicles, used for the displaying, storing or transportation of articles offered for sale by a hawker, peddler or vendor.

Itinerant vendor. As used herein shall be defined as in RSA 321:1 and shall include all persons, as defined by RSA 358-A:1, both principals and agents, including those persons whose principal place of business is not in this state, who engage in a temporary or transient business in this state, either in one (1) locality or traveling from place to place, selling goods, wares and merchandise, with a total value greater than five hundred dollars (\$500.00), from stock or by same for future delivery, and who, for the purpose of carrying on such business, hire or occupy a temporary place of business. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, motel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or trailer temporarily occupied for the purpose of making retail sales of goods to the public.

Charitable organizations. Any non-profit organization, association or corporation including any police, firemen, veteran, civic, fraternal or religious organization organized under the laws of this state and holding or eligible to receive an Internal Revenue Service non-profit organization number.
(Ord. of 4-6-98)

Sec. 9-154. Application process.

The license required by this article shall be issued by the city clerk. The application for a peddler/vendor license shall include the following:

- (a) All applications must be accompanied by a valid New Hampshire Hawkers/Peddlers or Itinerant Vendors License and/or board of health license when applicable.
- (b) All persons and their agents, shall be required to apply for and receive a separate license. A receipt for such local license fee, when paid, shall be endorsed by the city clerk, or designee, on the back of such state license, and a copy shall remain on file with the city clerk, or designee so long as such sale shall continue, or such goods be kept, offered or exposed for sale in such municipality.
- (c) The name, home and business address of the applicant, and the name and address of owner, if other than the applicant, of the vending business, stand or motor vehicle to be used in the operation of the vending business.
- (d) A description of the type of food, beverage or merchandise to be sold, and in the case of products of farm or orchard, whether produced or grown by the applicant.
- (e) A description of the proposed location of the vending business, except that vendors from motor vehicles shall describe the general area.
- (f) Written consent of the property owner if the business activity is to be conducted on private property.

- (g) Make, model, and license number of any vehicle to be used by applicant or their agents in the conduct of his business will be included.
- (h) Identification. All applicants shall provide a driver's license or some other proof of identity as may be reasonably required.

(Ord. of 4-6-98)

Sec. 9-155. License fees.

Under this section the license fee shall be one hundred dollars (\$100.00) per cart, stand or motor vehicle from which goods are sold. This license shall expire one year and one day after the date of issuance. Licenses are not transferrable and shall be issued only for a specific cart, stand or vehicle to be located at a specific location. An additional license shall be required for each additional cart, stand or vehicle or for any change in the location of the vending business.

(Ord. of 4-6-98)

Sec. 9-156. License conditions.

No vendor or peddler shall:

- (A) Vend within five hundred (500) feet of the grounds of any school between one (1) hour prior to the start of the school day and one (1) hour after dismissal at the end of the school day;
- (B) Store, park, or leave any stand overnight on any street or sidewalk, park any motor vehicle other than in a lawful parking place, in conformance with the city and state parking regulations;
- (C) Sell food or beverages for immediate consumption unless there is a litter receptacle available for the patrons' use;
- (D) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from the sales made by the vendor.
- (E) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the stand or motor vehicle or outside of the approved vending area.
- (F) Set up, maintain or permit the use of any table, crate, carton, rack, sign or any other device to increase the selling or display capacity of his or her stand or motor vehicle, where such items have not been described in his or her application or may be in violation of any other city ordinance or regulations.
- (G) Solicit or conduct business with persons in motor vehicles within the travelled way.
- (H) Sell anything other than that which he or she is licensed to vend.
- (I) Sound or permit the sounding of any device which produces a loud and/or raucous noise, or use or operate any loud speaker, public address system, radio sound amplifier or similar device to attract the attention of the public.

(Ord. of 4-6-98)

Sec. 9-157. Notice regulating soliciting.

No vendor/peddler selling from a stand on the sidewalk shall:

- (a) Vend at any location where the unobstructed sidewalk area after deducting the area occupied by the stand is less than three (3) feet in width.
- (b) Vend within twenty (20) feet on an entrance way to any building.
- (c) Vend within thirty (30) feet of any driveway entrance to a police or fire station, or within ten (10) feet of any other driveway entrance.
- (d) Vend within twenty (20) feet of the crosswalk at any intersection.
- (e) Allow the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure.

No vendor/peddler selling from a motor vehicle shall:

- (a) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.
- (b) Stop, stand or park his/her vehicle upon any street for the purpose of selling, or sell on any street under any circumstances during the hours when parking, or stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance.
- (c) Stop, stand or park his or her vehicle within thirty (30) feet of the edge of the travel led way of any intersection. Vehicles vending products likely to attract children as customers shall park curbside when stopping to make a sale.

The police department will have on file a list of all licenses issued under this section.

(Ord. of 4-6-98)

Sec. 9-158. Property owner signed approval.

All applications for "itinerant vendors" and "hawkers/peddlers" licenses which propose to be situated on private property shall be accompanied by a written statement from the owner of the property proposed to be used, which shall indicate consent by the owner for the proposed use, and the period of time for which consent is given.

(Ord. of 4-6-98)

Sec. 9-159. Duty of solicitors.

Liability insurance: To hold a valid license, a direct seller selling or offering for sale goods from a pushcart, stand, table, container or other stationary apparatus located on the public way must have in force at all times general liability insurance. As evidence of the applicant's ability to comply with this condition of the license, the applicant shall furnish to the city a certificate of insurance evidencing the existence of general liability insurance with the city named as an additional insured. Insurance coverage required under this paragraph shall be at a minimum a combined single limit of one hundred thousand dollars (\$100,000.00) per occurrence.

(Ord. of 4-6-98)

Sec. 9-160. Exemptions.

The articles of this article shall apply to all vendors, hawkers, peddlers and transients doing business or conducting sales within the city except the following:

- (A) Any person selling, at or on his or her own property or residence, the product of his or her own labor, the labor of his or her family or the product of his or her own farm or the one he or she tills.
- (B) Any person conducting the sales of personal household goods at or on his or her own property or residence.

(Ord. of 4-6-98)

Sec. 9-161. Violations.

Any person, firm or corporation, violating any provisions of this article shall be fined up to but not exceeding one hundred dollars (\$100.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. of 4-6-98)

Sec. 9-162. Non-endorsement clause.

The city in granting such licenses in no way endorses any product, company or corporation through the licensing process and assumes no responsibility of any such factor.

(Ord. of 4-6-98)

Secs. 9-163--9-175. Reserved.

ARTICLE VI.

RESTAURANTS*

* **Case Law References:** *State v. Grant*, 107 N.H. 1, 216 A2d 790 (1966). Regulations for determining prohibiting the keeping open of such places on the Lord's Day is constitutional, and regulation requiring all houses and restaurants to be closed from midnight to six a.m. is valid exercise of powers conferred by the statute.

Cross References: Health department, § 2-311 et seq.; health, Ch. 7.

State Law References: Power to make by-laws, RSA 31:39; power to regulate, RSA 47:17; food sanitation, RSA 143:1 et seq.; health officers may regulate and license restaurants, RSA 147:1.

DIVISION 1.

GENERALLY

Sec. 9-176. Definitions.

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

Approved shall mean approved by the health administrator of the city.

Employee shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

Establishment shall mean the place where the restaurant or itinerant restaurant is operated or intended to be operated.

Health administrator shall mean the health administrator of the city or his authorized representative.

Itinerant restaurant shall mean any eating or drinking establishment where food is offered for sale and operating for a period not exceeding thirty (30) days in connection with a fair, carnival, circus, public exhibition, or other similar gathering.

Multi-use utensils shall mean all utensils used more than once.

Restaurant shall mean any eating or drinking establishment where food or drink is offered for sale, such as restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, diner, sandwich stand, soda fountain and all other eating or drinking establishments as well as kitchens on or off the premises, or other places in which food or drink is prepared for sale on the premises or elsewhere, except bakeries and boardinghouses.

Single service containers shall mean containers used only once and destroyed after use.

Utensils shall mean and include any kitchenware, tableware, glassware, cutlery, containers, or other equipment with which food or drink comes in contact during storage, preparation, cooking or serving.

Victualer shall mean a person operating a restaurant.

(Code 1977, § 11:201; Ord. of 5-6-96(1))

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 9-177. Enforcement.

This article shall be enforced by the health administrator in cooperation with the state as required for the continued provision of public health and in accordance with the interpretations thereof contained in the New Hampshire Rules for the Sanitary Production and Distribution of Food, He-P 2300, which are hereby adopted by reference, except for any and all license and fee schedules required by the state. A copy of such rules shall be on file at the city clerk's office and the health department.

(Code 1977, § 11:213; Ord. of 5-6-96(1))

Sec. 9-178. Licenses required, applications, terms, fees.

(a) It shall be unlawful for any person to operate a restaurant or an itinerant restaurant in the city who does not possess an unrevoked or unsuspended license granted by the health administrator. Only persons who comply with the requirements of this article shall be entitled to receive and retain such a license. Application for such license shall be made to the health administrator. All applications shall be made upon a

form prescribed by the health administrator and when submitted to the health administrator shall bear the recommendations of the health administrator for approval or disapproval.

(b) The applicant for a license shall file with the health administrator a written application therefor on the prescribed form which shall contain a description of the premises at which it is proposed to conduct the restaurant or itinerant restaurant, and such other information as the health administrator may reasonably require to enable him to determine whether the place is so constructed and equipped as to comply with the provisions of this article. Upon the filing of such application, the health administrator shall promptly inspect the premises described in the application. Should the health administrator refuse to recommend that a license be issued to such applicant, he shall notify the applicant of his reason or reasons therefor by mail at the address stated in the application.

(c) All victualers' licenses of the city shall expire annually on the thirty-first day of May. A person conducting an itinerant restaurant shall be required to secure a license which shall be for not more than thirty (30) days duration. A license may be temporarily suspended by the health administrator upon a violation by the holder of any of the terms of this article; or revoked after an opportunity for a hearing by the city council upon serious or repeated violations.

(d) The annual fees for victualer's license shall be as follows:

- (1) Victualer who does not serve malt beverages for consumption on the premises; and where no cooking is done on the premises \$ 5.00
- (2) Victualer who does not serve malt beverages for consumption on the premises; and where cooking is done on the premises 10.00
- (3) Victualer who serves malt beverages for consumption on the premises and where cooking is done on the premises 10.00
- (4) Itinerant restaurant as hereinafter described 10.00
- (5) Victualer who serves malt beverages for consumption on the premises and where no cooking is done on the premises 10.00

No fee shall be charged for licenses issued to non-profit institutions.

(e) The licenses issued hereunder must be displayed at all times in a conspicuous place on the premises licensed.

(Code 1977, § 11:202; Ord. of 5-6-96(1))

Sec. 9-179. Suspension, revocation of license; rules and regulations.

(a) No restaurant shall be operated within the city unless it conforms with the requirements of this article; provided, that when any restaurant fails to qualify the health administrator is authorized to temporarily suspend the license.

(b) The health administrator shall have the power after a hearing to refuse to issue a license or to suspend or revoke the license of any restaurant which does not meet the requirements of this article.

(c) The health administrator shall have power to adopt reasonable rules and regulations governing its procedure relating to hearings provided for in this article.

(Code 1977, § 11:207; Ord. of 5-6-96(1))

Sec. 9-180. Reinstatement of license.

(a) Any restaurant, the license of which has been suspended, may at any time make application to the health administrator for reinstatement of the license.

(b) Within one (1) week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provisions of this article have been conformed with the health administrator shall make a reinspection, and if satisfied that the applicant is endeavoring to comply with the requirements theretofore violated, he shall make as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the requirements of this article and in case the findings indicate compliance, the health administrator shall reinstate the license.

(Code 1977, § 11:208; Ord. of 5-6-96(1))

Sec. 9-181. Inspection of restaurants, itinerant restaurants.

(a) The health administrator, before issuing or renewing a license, shall cause an inspection to be made of the restaurant or itinerant restaurant, and shall cause further inspections to be made at least once every three (3) months, or as often as he deems such inspections necessary. In case the health administrator discovers the violation of any item of sanitation required by the terms of this article or section thereof, he shall make a second inspection after the lapse of such reasonable time as he deems necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the requirements of this article. Any violation of the same item of this article on such second inspection shall be cause for immediate suspension of license.

(b) One (1) copy of the inspection report shall be sent by the health administrator to the manager or operator of the restaurant or itinerant restaurant, and the latest inspection report shall be kept on file in the office of the manager and shall not be defaced or removed by any person except the health administrator. Another copy of the inspection report shall be filed with the records of the health department.

(c) The person operating the restaurant or itinerant restaurant shall, upon request of the health administrator, permit access to all parts of the establishment for the purpose of inspection and shall furnish upon demand and/or permit copying any or all records of sources of supply of food or drink purchased or used in or on the premises.

(Code 1977, § 11:204; Ord. of 5-6-96(1))

Sec. 9-182. Examination, condemnation of unwholesome, adulterated food or drink.

Samples of food, drink, and other related substances found in any restaurant or itinerant restaurant may be taken and examined by the health administrator as often as may be necessary for the detection of unwholesomeness or adulteration. The health administrator may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or illegally adulterated.

(Code 1977, § 11:203; Ord. of 5-6-96(1))

Sec. 9-183. Disease control.

No person who is affected with any disease in a communicable form or is a carrier of such disease or who has suppurating lesions on arms, hands or other exposed parts of the body shall work in any restaurant, or itinerant restaurant, and no restaurant, or itinerant restaurant shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. If the manager suspects that any employee has contracted any disease in a communicable form or has become

a carrier of such disease he shall notify the health administrator immediately. A placard containing this section shall be posted in all toilet rooms. (Code 1977, § 11:209; Ord. of 5-6-96(1))

Sec. 9-184. Procedure when infection suspected.

When suspicion arises as to the possibility of transmission of infection from any restaurant employee, the health administrator is authorized to require any or all of the following measures:

- (1) The immediate exclusion of the employee from any restaurant;
- (2) The immediate closing of the restaurants concerned until no further danger of disease outbreak exists, in the opinion of the health administrator;
- (3) Adequate medical examination of the employee and of his associates, with such laboratory examinations as may be indicated.

(Code 1977, § 11:210; Ord. of 5-6-96(1))

Sec. 9-185. Itinerant restaurants.

(a) An itinerant restaurant shall be located in clean surroundings and kept in a clean and sanitary condition. It shall be so constructed and arranged that food, drink, utensils, and equipment will not be exposed to insects or to dust or other contamination. Only food and drink which are clean, wholesome, and free from illegal adulteration shall be sold or served. An adequate supply of water of safe, sanitary quality shall be easily available and used for drinking and for cleaning utensils and equipment. If multi-use utensils are used in the serving of food or drink, they shall be thoroughly washed with hot water and a satisfactory detergent, and effectively subjected to an approved bactericidal process after each use and so handled and kept as to be protected from contamination. Adequate provision shall be made for refrigeration of perishable food and drink. Ice used in or with food or drink shall be from a source approved by the health administrator and so handled as to avoid contamination.

(b) Garbage and refuse shall be kept in tightly covered, watertight containers until removed and shall be disposed of in a place and manner approved by the health administrator. Dishwater and other liquid wastes shall be so disposed of as not to create a nuisance.

(c) No person suffering from any disease transmissible by contact or through food or drink, or who is a carrier of germs of such a disease, shall be employed in any capacity. Adequate and satisfactory toilet and hand-washing facilities shall be readily accessible to employees. No person engaged in the handling or serving of food or drink shall return to his work, after using the toilet, without first thoroughly washing his hands.

(d) When a license is issued to the holder of a permit for an itinerant restaurant, the word itinerant shall be stamped across the face of the license.

(Code 1977, § 11:206; Ord. of 5-6-96(1))

Secs. 9-186--9-200. Reserved.

DIVISION 2.

SANITARY REQUIREMENTS

Sec. 9-201. Applicability of division.

All restaurants shall comply with all provisions of this division.
(Code 1977, § 11:205)

Sec. 9-202. Floors.

The floors of all rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair; provided, however, that this item shall not be construed to prohibit the use of rugs or carpets in dining rooms or similar auxiliary floor coverings in rooms where food or drink is served or consumed only.
(Code 1977, § 11:205.1)

Sec. 9-203. Walls and ceilings.

Walls and ceilings of all rooms of restaurants shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is prepared shall be finished in a light color. The walls of all rooms in which food or drink is prepared or utensils are washed shall have a smooth, washable surface up to the level reached by splash or spray.
(Code 1977, § 11:205.2)

Sec. 9-204. Lighting.

All rooms in which food or drink is stored or prepared or in which utensils are washed shall be well lighted.
(Code 1977, § 11:205.3)

Sec. 9-205. Ventilation.

All rooms in which food or drink is prepared or served or in which utensils are washed shall be well ventilated.
(Code 1977, § 11:205.4)

Sec. 9-206. Toilet facilities.

(a) Every restaurant shall have adequate and conveniently located toilet facilities for its employees and patrons, conforming with the ordinances of the city. All toilet rooms which are available for the use of patrons of restaurants or itinerant restaurants shall comply with the following requirements:

- (1) Public toilet rooms shall provide sufficient privacy, have self-closing doors, and shall be adequately lighted and ventilated. Such toilet rooms shall be separate for the sexes except when unnecessary, in the opinion or judgment of the health officer.
- (2) The floor of public toilet rooms shall be of nonabsorbent material, or covered with such material and made watertight with a suitable waterproofing material.
- (3) All water closets and urinals shall be kept clean and in good repair.
- (4) Approved hand-washing facilities shall be provided and shall be kept clean and in good repair. Liquid soap and single-service paper towels or other approved type of individual towel service shall be provided.

- (5) No common drinking vessels shall be provided, nor shall holders for such vessels be installed. Drinking fountains shall be of a type approved by the health department of the city. If single-service drinking cups are provided, they shall be dispensed from an approved dispenser, and a waste container for the reception of used cups shall be provided.

(b) Any restaurant which is so classified by this article because it maintains a soda fountain and serves soft drinks and ice cream in combinations usual in an ice cream parlor or, with or without maintaining such soda fountain, serves sandwiches, but where no cooking is done upon the premises, and in either situation providing seats for not more than twelve (12) patrons, or having no seats has counter space for patrons not in excess of twenty-four (24) feet, and where not more than three (3) employees including the owner or manager shall be working at the same time, shall be exempted from the requirement of providing toilet facilities for its patrons and one (1) conveniently located toilet facility shall be deemed to be adequate for its employees. In restaurants constructed or renovated toilet rooms shall be separate for the sexes and shall not open directly into any room in which food, drink or utensils are handled or stored.
(Code 1977, § 11:205.5)

Sec. 9-207. Lavatory facilities.

All food and drink establishments shall be provided with suitable washrooms and water closets for the use of employees. Such washrooms and water closets shall be in rooms having no direct connection with any room in which food products, drinks or ingredients are stored, prepared, handled, displayed or served. Doors to such washrooms and water closets shall be self-closing. A separate closet or room shall be provided for the changing or the storage of the wearing apparel of the employees. Adequate and convenient washrooms shall be provided with hot and cold running water, liquid soap, and approved sanitary towels. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without first washing his hands.
(Code 1977, § 11:205.8)

Sec. 9-208. Furniture and equipment.

The furniture and equipment used in restaurants shall be so arranged as to permit ready and easy cleaning, and shall be maintained in a clean and sanitary condition. Running hot and cold water shall be easily accessible to all rooms in which food is prepared or utensils are washed, and a double-well sink must be provided, but dishwashers approved by the health officer may be used in place of a double-well sink. All wastewater from sinks, sterilizers, etc., must be connected with the sewage system. Wooden sinks are prohibited. All refrigerators, iceboxes, and appurtenances thereof shall be kept in good repair, clean and sanitary. All refrigerators and iceboxes shall be kept at a temperature that will prevent the spoilage of food.
(Code 1977, § 11:205.6)

Sec. 9-209. Water supply.

An adequate and safe supply of hot and cold running water under satisfactory pressure shall be easily available in all rooms of restaurants in which food is prepared or utensils are washed.
(Code 1977, § 11:205.7)

Sec. 9-210. Screening and self-closing doors.

When flies are prevalent, all openings into the outer air shall be effectively screened, and doors shall be self-closing, unless other effective means are provided to prevent the entrance of flies.
(Code 1977, § 11:205.9)

Sec. 9-211. Protection of food from dust.

The proprietor of any establishment referred to in this article shall cause all equipment, including show or display cases, windows, counters, shelves, tables, refrigerators, stoves, hoods, sinks and other equipment with which food, drinks, or utensils come in contact, to be kept clean and free from dust, dirt, insects, and other contaminating material, as well as from handling by the public. No proprietor shall permit the transportation of food or drink off the premises of his establishment without proper cover during transportation and delivery of such food, drink or bakery product.

(Code 1977, § 11:205.10)

Sec. 9-212. Construction of utensils and equipment.

All multiuse or any other utensils and all show or display cases or windows, counters, shelves, tables, refrigerating equipment, sinks, and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept in good repair. Chipped enamel utensils or utensils containing or plated with cadmium or lead shall not be used; provided, that solder containing lead may be used for jointing.

(Code 1977, § 11:205.11)

Sec. 9-213. Cleansing and disinfection of eating, drinking and cooking utensils.

Adequate facilities shall be provided for washing, rinsing, and disinfecting all multiuse utensils. All multiuse eating, drinking and cooking utensils shall be so cleansed and disinfected as to be free from bacilli of the coliform group and to have a total bacteria count of not more than one hundred (100) per utensil as determined by tests in a laboratory approved for the purpose by the state health officer. All glasses, dishes, silverware and other utensils used in such establishments serving food or drink shall be thoroughly cleansed after service to each patron, and then subjected for five (5) minutes to the germicidal action of clean water heated to and maintained at a minimum temperature of one hundred sixty (160) degrees Fahrenheit. Other methods of germicidal action by the use of heat, hot water, steam or mechanical or chemical devices approved by the health officer may be substituted for the above. This rule shall not apply to cups, dishes or spoons which are made of paper, wood or similar material which are used but once and then destroyed. All cloths used by waiters, chefs, and other employees shall be clean. Single-service containers shall be used only once. No article, polish, or other substance containing any cyanide preparation or other poisonous material shall be used for the cleaning or polishing of utensils.

(Code 1977, § 11:205.12)

Sec. 9-214. Use of defective utensils.

Chipped or cracked glasses, dishes and utensils shall not be used in any establishment licensed pursuant to this article. Such articles in the condition described above are to be discarded immediately.

(Code 1977, § 11:205.13)

Sec. 9-215. Storage and handling of utensils and equipment.

After bactericidal treatment, utensils used in establishments licensed pursuant to this article shall be stored in an inverted position in a clean, dry place and on an approved steel rack, provided for this purpose only, so as to be protected from flies, insects, dust and other contamination. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used and shall be handled in a sanitary manner.

(Code 1977, § 11:205.14)

Sec. 9-216. Disposal of wastes.

All wastes generated by establishments regulated by this article shall be properly disposed of and all garbage and trash shall be kept in suitable receptacles, in such manner as not to become a nuisance. Such receptacles shall be provided with proper tightfitting covers and kept covered at all times.
(Code 1977, § 11:205.15)

Sec. 9-217. Refrigeration.

All readily perishable food and drink in restaurants shall be kept at or below fifty (50) degrees Fahrenheit, except when being prepared or served. Wastewater from refrigeration equipment shall be properly disposed of.
(Code 1977, § 11:205.16)

Sec. 9-218. Wholesomeness of food and drink.

All food and drink in restaurants shall be clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption. All milk, cream, milk products, ice cream, and other frozen desserts served shall be from sources approved by the health officer. Only grade A raw and pasteurized milk, cream and milk products shall be used. Milk, cream and milk products shall be served in the individual original containers in which they were received from the distributor or from a bulk container equipped with an approved dispensing device, provided that this requirement shall not apply to cream which may be served from the original bottle or from a dispenser approved by the state department of health for such service. All oysters, clams and mussels shall be from sources approved by the health officer, and if shucked shall be kept until used in the containers in which they were placed at the shucking plant.
(Code 1977, § 11:205.17)

Sec. 9-219. Storage, display, serving of food and drink.

All food and drink in restaurants shall be so stored, displayed, and served as to be protected from dust, flies, vermin, depredation and pollution by rodents, unnecessary handling, droplet infection, overhead leakage, and other contamination. No animals or fowls shall be kept or allowed in any room in which food or drink is prepared or served. All means necessary for the elimination of flies, roaches, and rodents shall be used.
(Code 1977, § 11:205.18)

Sec. 9-220. Poisons.

(a) The storage, keeping, or use in restaurants of any insecticide, exterminators, or other substance containing a fluoride or other poison in refrigerators, on shelves or in other places where they may contaminate foods or beverages is prohibited.

(b) Containers in which poisonous insecticides or exterminators are stored shall bear a label with the word "POISON" and the symbol of the skull and crossbones in red. Such material if in the form of a white powder consisting wholly of or containing arsenic in its elemental form or in any of its combinations or fluorine in any of its combinations shall be colored blue, red or green.
(Code 1977, § 11:205.18)

Sec. 9-221. Cleanliness of employees.

All employees of restaurants shall wear clean garments and shall keep personally clean at all times, and all female employees shall wear hair nets while engaged in handling food, drink, utensils, or equipment. Employees shall not expectorate or use tobacco in any form in rooms in which food is prepared.
(Code 1977, § 11:205.19)

Sec. 9-222. Litter, living quarters, dressing rooms, linens.

The premises of all restaurants shall be kept clean and free of litter or rubbish. None of the operations connected with a restaurant shall be conducted in any room used as living or sleeping quarters. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall be kept clean. Soiled linens, coats and aprons shall be kept in containers provided for this purpose.

(Code 1977, § 11:205.20)

Secs. 9-223--9-240. Reserved.

ARTICLE VII.

SECONDHAND GOODS DEALERS*

* **State Law References:** Power to license, RSA 47:17; pawnbrokers, RSA 398:1 et seq.; junk dealers, RSA 322:1.

Sec. 9-241. Adoption of pawnbroker statutes.

The provisions of RSA 398:1 et seq., relating to pawnbrokers, are hereby adopted.
(Code 1977, § 10:301)

State Law References: Power to license, RSA 47:17, 398:4.

Sec. 9-242. Adoption of junk dealer and junk yard statutes.

The provisions of RSA 322:1 et seq. and RSA 236:111 et seq. having reference to junk dealers and junk yards, respectively, are hereby adopted.

No person shall operate a junk yard within the limits of the city until a written application, specifying the location of the junk yard, is first obtained by the city clerk, who shall have the authority to issue license renewals, provided the junk yard has been inspected and approved for operation by the police department and building inspector, who shall, at their discretion, request further inspection by the fire chief and health officer if it is deemed to be necessary. New license applications shall be submitted to the city council, following an inspection of the site by the building inspector, and by other appropriate departments as deemed necessary.

The city council shall, at its discretion, authorize the city clerk to issue the initial license.

(Code 1977, § 10:401; Ord. of 11-19-90; Ord. of 5-17-99)

State Law References: Power to license, RSA 47:17, 322:1.

Secs. 9-243--9-260. Reserved.

ARTICLE VIII.

TAXICABS*

* Cross References: Streets, sidewalks and other public places, Ch. 13; traffic and vehicles, Ch. 14.
State Law References: Power to license, RSA 47:17: 31:40; 376:3

Sec. 9-261. Definitions.

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

Taxicab Business License shall mean the license granted by the Mayor and City Council to a person or business entity to operate a taxi for hire business within the City of Berlin for a period of one year.

Owner shall mean the person or business entity engaged in the business of transporting passengers in a taxicab from one destination to another for a fee.

Taxi Driver shall mean the person driving or having control of the motor vehicle while the motor vehicle is being used in the licensed taxi business.

Taxi or taxicab shall mean any motor vehicle, having a manufacturer's rated capacity of not more than seven (7) passengers used in the call and demand of transportation of passengers for compensation to and from points chosen or designated by the passengers and not operated on a fixed schedule, between fixed termini or any such vehicle leased or rented or held for leasing or renting, with or without driver or operator.

Taxi stand shall mean such portion or portions of the public street or highway as shall be designated by the Mayor and City Council as a place in which taxis may stand or park and from which place taxi owners and/or drivers may solicit taxi business.

(Code 1977, § 8:101; Ord. of 1-16-89)

Cross References: Definitions and rules of construction generally, § 1-2

Taxicab Oversight Committee (TOC) shall consist of the City Manager, the City Clerk and the Police Chief. The City Manager shall act as Chairman. The function of the TOC is to review taxicab business license applications; make recommendations to the Mayor and Council on these and issues of license revocation; review criminal background checks to determine when a background check has sufficient criminal activity to disqualify the person(s) from being a taxi driver; and to receive and review unresolved complaints from the public regarding the taxi business. (Ord of 12-15-2008)

Sec. 9-262. Taxicab Business License Required.

No person shall operate or cause to be operated a taxicab business within the City of Berlin without first having received a taxicab business license from the Mayor and Council. Application for a license to operate a taxicab business shall be made on forms provided by the City Clerk, who shall keep a record of all applications and licenses granted. All taxicab business licenses shall be numbered in order as granted. All applications shall set forth or include the following:

(1) The name, date of birth, social security number, home address, home phone number, business name, business address and business phone number of the applicant, and name, address and phone number of intended dispatch service if different than above.

(2) The trade name under which the applicant does or proposes to do business. If the applicant is any type of business entity such as a corporation, partnership, etc., a list of the names, dates of birth, social

security numbers, home addresses, and home phone numbers of any other person or persons having an interest in the business.

(3) A copy of the vehicle registration of the proposed taxicab(s). A description, including the manufacturing year, makes, model, motor vehicle license plate state and number of the proposed taxicab(s).

(4) Completed and notarized New Hampshire Department of Safety Division of State Police Criminal Record Release Authorization Form authorizing the City Clerk and/or the Police Department to obtain the criminal and motor vehicle records of anyone named on the taxicab business license application.

The City Clerk will apply to the State Police for a check of the criminal and motor vehicle records of persons named on the taxicab business license application. The City Clerk shall issue an original or renewed taxicab business license after receipt of the application and a full review by the TOC and approval of the City Council for an original license. All original taxicab business license applications shall be approved by the City Council. (Ord of 12-15-2008)

Sec. 9-263. License not assignable.

No taxicab business license granted hereunder shall be sold, assigned or transferred. All such licenses granted shall expire on the first of January next following issuance.

(Code 1977, § 8:102; Ord. of 1-16-89, § 8:102; Ord. of 11-19-90) (Ord of 12-15-2008)

Sec. 9-264. Renewals.

Taxicab business license renewal applications must be filed with the City Clerk no later than thirty (30) days prior to expiration of the license, in order to keep renewal privileges. The annual fee must accompany the application. The City Clerk shall be authorized to issue a license for renewal applications without Mayor and Council approval.

(Code 1977, § 8:114; Ord. of 1-16-89, § 8:112; Ord. of 11-19-90) (Ord of 12-15-2008)

Sec. 9-265. Suspension or Revocation of license

Except where a taxicab business license is automatically revoked as in Sec. 9-268, it shall be the discretion of the City Council to revoke a taxicab business license upon recommendation from the TOC and after a hearing before a quorum of the City Council where the licensee has been given a notice of not less than five (5) days.

(a) Causes for revocation include, but are not limited to:

- (1) Occurrence of violation listed in Section 9-267 and 268;
- (2) Bankruptcy, foreclosure, termination of business by licensee; and
- (3) Repeated motor vehicle violations.
- (4) Repeated violations of any of the requirements or standards listed in this ordinance.

(b) Any Licensee may appeal a revocation to the City Council by requesting reconsideration in writing to the City Council within ten (10) calendar days of the license revocation. The City Council shall reconsider the revocation and render a final decision. The Licensee then has the right to appeal to the superior court. The appeal shall be filed within seven (7) calendar days of the City Council's final decision.

(Code 1977, § 8:113; Ord. of 1-16-89, § 8:111) (Ord of 12-15-2008)

Sec. 9-266. License fee.

Upon approval of the application for a taxicab business license to operate a taxicab business in this city by the City Council, the owner shall pay the City Clerk one hundred and fifty dollars (\$150.00) annually for the taxicab business license.

(Code 1977, § 8:103; Ord. of 1-16-89, § 8:103) (Ord of 12-15-2008)

Sec. 9-267. License Prohibitions

Under no circumstances shall the holder of any taxicab business license issued by the City operate as a taxi any vehicle which is not listed on the taxicab business license issued by the City or utilize the services of any taxi driver who is not listed on the taxicab business license issued by the City. The responsibility that all vehicles and taxi drivers utilized by the licensed taxi business are approved and listed on the taxicab business license is entirely that of the licensee. Violation of this requirement by the holder of any taxicab business license is grounds for immediate revocation of the license by the City. Under no circumstances will a taxicab utilized by a taxicab business licensee be used for the commercial transport of alcohol, drugs or weapons.

Taxicab business licenses shall not be issued to the following:

- a) To a corporation or business entity which is not properly registered or licensed to do business in the state.
- b) To an applicant other than the registered owner or lessee of the vehicles.
- c) To a corporation if any principal officer thereof or any person having actual ownership interest therein has a disqualifying criminal conviction.
- d) To an applicant other than a corporation if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction. (Ord of 12-15-2008)

• **Sec. 9-268. Insurance**

- Every applicant for a license to operate a taxicab business shall file with the City Clerk before the license is issued covering the period of license a policy or certificate of insurance as follows: Each applicant shall carry a policy or policies which indemnify the applicant against damages for injury to persons and property arising out of the operation of the taxicab or taxicabs in the principal sum of not less than three hundred thousand dollars (\$300,000) per person for bodily injury or death resulting from any one (1) accident and not less than five hundred thousand dollars (\$500,000) for bodily injury or death arising out of any one (1) accident and for not less than one hundred thousand (\$100,000) for damages resulting from damage to property arising out of one (1) accident. The above mentioned policies shall not be changed, terminated or canceled prior to the expiration date except upon thirty (30) days advance written notice to the City Clerk. The certificate of insurance shall indicate the maximum number of taxicabs which may be in use for passenger service under the provisions of the insurance policy, including the year, make, model and vehicle identification number of each. The certificate of insurance shall also state that the coverage is valid in the State of New Hampshire. Lapse of liability insurance coverage for any reason shall result in the automatic revocation of the taxicab business license.
- (Code 1977, § 8:104; Ord. of 1-16-89, § 8:104) (Ord of 12-15-2008) (Ord. of 7-7-2010)
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Sec. 9-269. Taxicab Driver Requirements.

a) Prior to any taxicab business licensee hiring any person to be a taxicab driver, such taxicab business licensee must receive approval from the TOC certifying that the criminal background check did not disqualify such individual from being added to the taxicab business license as a taxi driver. To accomplish this background check, the taxicab business licensee shall first provide the following information to the City Clerk for the proposed taxicab driver(s):

- (1) The name, date of birth, home address, social security number and telephone number of the proposed driver(s).

(2) A statement signed by the applicant that he/she has not been convicted of a felony or misdemeanor in any state, or if the applicant has been convicted of a felony or a misdemeanor, a date and description of the felony or misdemeanor.

(3) Any other information reasonably required by the police department or City Clerk.

(4) Completed and notarized New Hampshire Department of Safety Division of State Police Criminal Record Release Authorization Form authorizing the City Clerk and/or the Police Department to obtain the criminal and motor vehicle records in the State of New Hampshire of the proposed taxicab driver(s). The taxicab business licensee shall be responsible to pay in advance for each criminal record release authorization fee for each proposed taxicab driver(s).

(b) No person shall operate a taxicab unless he/she is at least eighteen (18) years of age and possesses a valid New Hampshire operator's license. In addition, no proposed taxicab driver may be added to the approved taxicab drivers listed on a taxicab business license if they fall into any of the below categories:

(1) A proposed taxicab driver who has a disqualifying criminal conviction as determined by the TOC, or who has been imprisoned at any time during the preceding seven (7) year period for a disqualifying criminal conviction, provided that the conviction was for an offense rationally related to the purpose of licensing a taxicab drivers.

(2) A proposed taxicab driver who has received a disqualifying motor vehicle conviction, or whose privilege to operate a motor vehicle in any jurisdiction has been revoked or suspended at any time during the one (1) year preceding the application for any reason.

(c) A proposed taxicab driver who is not approved to be added to a taxicab business license under the standards of this section, or who has reason to believe that they may not be approved under these standards, or the taxicab business licensee on their behalf, may file a written request for a review by the TOC. The TOC will approve or disapprove the fitness of the applicant to be added to a taxicab business license. The TOC may hold such hearing or hearings as it deems appropriate and may require the submission of qualifying evidence to make an assessment, including character references, and then shall make a final finding with respect to the appeal which the taxicab business licensee hereby agrees to abide by.

(d) The City Clerk shall make and keep a written record of every decision to disapprove a proposed taxicab driver from being added to a taxicab business license.
(Code 1977, § 8:105; Ord. of 1-16-89, § 8:105) (Ord of 12-15-2008)

Sec. 9-270. Taxicab Business Minimum Operating Standards:

1) Each taxicab shall be equipped with two-way communication equipment and have an arrangement for calling for prompt assistance in the event of a breakdown en route.

2) The Licensee shall publish hours of dispatch service in all display advertising.

3) The Licensee shall have a published business telephone number.

4) Condition and appearance of taxicabs:

(a) It shall be the responsibility of the Licensee to insure that all taxicabs shall be kept in a safe and operating condition at all times.

(b) The interior of all taxicabs shall be clean at all times and shall be suitable for the occupancy and safety of passengers.

5) Care of Passengers:

(a) Taxi drivers shall not carry more passengers in their taxicabs than the seating capacity as listed in the manufacturer's vehicle specification.

(b) No taxicab drivers shall directly solicit passengers.

(c) No taxicab shall stop to take on or discharge passengers at any place or on any street or square except at the curb or as near thereto as possible. Passengers shall be permitted to enter or leave the vehicle only from the side nearest the curb, unless there are extraordinary circumstances.

(d) It shall be the duty of every taxicab driver or operator of a taxicab, upon request, during their regular business hours, to transport any orderly person. (Ord. of 1-16-89, § 8:114.4)

(e) All property left in taxicabs shall be returned to the owner. If the owner cannot be readily located, it shall be delivered to the Police Department. (Ord. of 1-16-89, § 8:114.5)

(Ord. of 1-16-89, § 8:114.3) (Ord of 12-15-2008)

Sec. 9-271. Taxicab records requirements.

(a) Each taxicab business licensee with at least one (1) taxicab shall be required to keep a log detailing all requests for services as received and shall contain no less than the following information: date and time call received, address of caller, destination, cab to which call was added, name of driver and fare charged. The log shall be maintained in order by date at the principal place of business of licensee or licensee's dispatch service for the current calendar year and for the calendar year immediately preceding the current calendar year and shall be made available upon request, for review by any law enforcement agency or the TOC.

(b) A taxicab licensee shall notify the City Clerk immediately upon becoming aware that they or any one of their taxicab drivers have received a felony or misdemeanor criminal conviction or motor vehicle conviction or notification that their motor vehicle license has been suspended or revoked by any jurisdiction. (Ord. of 1-16-89, § 8:114.6) (Ord of 12-15-2008)

Sec. 9-272. Complaints.

Every taxicab business licensee shall post a notice in each taxicab that shall state that any passenger who wishes to complain or comment about any aspect of the taxicab or driver may call or write to the person or business entity holding the taxicab business license (licensee) with a copy to the City Clerk whose address and phone number shall be on the notice. Unresolved complaints will be referred to the TOC who will hold a hearing and make a decision which the taxicab licensee hereby agrees to abide by. (Ord. of 1-16-89, § 1:114.7) (Ord of 12-15-2008)

Sec. 9-273. Inspection.

The Berlin Police Department may conduct an inspection of any operating taxicab at any reasonable time to ensure that it is in compliance with the requirements of this ordinance.

(Code 1977, § 8:108; Ord. of 1-16-89, § 8:107) (Ord of 12-15-2008)

Sec. 9-274. Posting and markings.

Inside the taxicab there shall be prominently posted a photograph and the name and physical description of the taxicab driver. Each taxicab shall have the taxicab business licensee's business name displayed either on the sides or on the roof of the vehicle in letters not less than three (3) inches in height. This sign may be permanent or detachable, but must be displayed when vehicle is used as a taxi. A taxicab which is not in service shall be clearly identified as being out of service.

(Code 1977, § 8:110; Ord. of 1-16-89, § 8:108) (Ord of 12-15-2008)

Sec. 9-275. Rates for fares.

(a) All taxicab business licensees shall file with the City Clerk the current rates being charged and shall file new rates as they are changed before they are allowed to be in effect. Such rates shall be posted in a conspicuous place in each taxicab.

(b) When any passenger(s) enters the taxicab, the taxicab operator must clearly state the total amount of the fare. If the passenger requests additional service, the taxicab operator will clearly state the new total fare.

(c) There shall be no additional charges added on for cab sharing

(Code 1977, § 8:109; Ord. of 1-16-89, § 8:114.8) (Ord of 12-15-2008)

Sec. 9-276. Penalty.

(a) The violation of any provision of this chapter shall be punishable by a fine not to exceed one hundred dollars (\$100.00) per day, and/or by the revocation of the taxicab vehicle business license.

(b) Each violation and every day upon which any such violation shall occur shall constitute a separate offense. The city may enjoin or abate any violation of this chapter by appropriate action. In addition to the penalty set forth in this chapter, if the court finds for the city, the city shall recover its costs of suit including reasonable expert's fees, attorney's fees and necessary investigative costs.

(c) The Police Department is hereby authorized to seize or immobilize any taxicab located within the city which is being operated but which is not listed on a valid taxicab business license. Upon such a seizure or immobilization, the police department shall notify the taxicab business licensee owner of the vehicle of such seizure, the reason therefore and where such vehicle has been removed or immobilized. The Police Department shall order the holding of any such vehicle for a period of not less than ten (10) days from the date of the required notification to the taxicab business licensee. During this period the owner may redeem any such vehicle by correcting the violation of this chapter which led to such seizure or by providing satisfactory evidence of this ability or intent to correct the violation. Any taxicab which is impounded or immobilized and which is not redeemed within thirty (30) days of the date of notification as described in this section shall become the property of the city. Cost for towing and storage charges will be billed to the taxicab business licensee operating the taxicab seized and must be paid before the release of the vehicle to the taxicab business licensee who shall be responsible for removing the vehicle from storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, storage and /or immobilization of each vehicle.

(Ord. of 1-16-89, § 8:115) (Ord of 12-15-2008)

Secs. 9-277--9-299. Reserved.

ARTICLE IX.

CENTRAL BUSINESS SERVICE DISTRICT

Sec. 9-300. Definitions.

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

Central business service district (CBSD) shall mean a designated area which has been specifically defined and inventoried and shall act as a special assessment district in accordance with RSA 31:120--125 and this article.

Special assessment shall mean a fee levied upon the property and building within the central business service district based upon the assessed valuation of said real estate with a fee schedule determined by this article. Said fee, once collected by the city, shall be turned over to the CBSD.

Election or vote as used herein shall be the formalized action by the real estate owners and for profit commercial tenants within the CBSD which shall be conducted on behalf of the CBSD by the city in a manner that is similar to any municipal election and vote conducted by the city for other public and political purposes.

Sunset as referred to in this article shall be the period of time after which any special assessments shall no longer apply or be collected unless reaffirmed by an election of the property owners and commercial tenants in the CBSD.

For profit commercial tenant shall be defined as a person or official representative of a for profit company, business or profession that leases or rents the building or property from a property owner.

Multiple property shall be where multiple buildings or property are owned but are not contiguous and are assessed by the city as separate parcels or buildings. For the purposes of this article, they shall be considered as separate parcels permitting a maximum of one (1) vote by the owner and one (1) vote per commercial tenant for each of those parcels or buildings. Where the city assesses contiguous parcels or multiple buildings as one (1) parcel or on one (1) property card, for the purposes of this article, they shall be permitted only one (1) vote.

Where there are multiple family dwellings or apartment houses with three (3) or less residential units without any commercial-retail space, said dwelling shall be exempt from this assessment fee. This criteria may be changed upon request by the CBSD directors in writing to the city council.
(Ord. of 5-5-97)

Sec. 9-301. Establishment.

Members of the board of directors shall be either owners, employees who are representatives of the owners, or commercial tenants of assessed property within the proposed district shall be established by the mayor and approved by the city council. Said directors shall use the records of the city to recommend the establishment of the central business service district. They shall have access to the city's property records for inventory and assessments which shall be used to determine the value of the district per RSA 31:122 through 31:124.

The district shall be re-examined every three (3) years by the board of directors for the purpose of making recommendations to city council for a commitment to continue the CBSD and/or amending the boundary lines of the district upon an affirmative vote of two-thirds (2/3) of the directors who are present and voting. For the purposes of the first proposed CBSD a council/citizen committee shall recommend a district to the owners and commercial tenants for the affirming vote.

A map of said district will become part of the documentation that is provided to the city tax collector at the time the directors request that the assessment fees made upon the district are to be collected by the city.

The proposal shall be presented to the real estate owners and for profit commercial tenants of the proposed CBSD so that they may vote by a clear majority of those voting, either accepting or rejecting the plan in a manner that is similar with any municipal election. For the purposes of this election, every property owner and for profit commercial tenant shall be entitled to one (1) vote each per taxable property.
(Ord. of 5-5-97; Ord. of 3-16-98(2))

Sec. 9-302. Function.

The board of directors shall be charged with all of the responsibilities and authority as outlined in RSA 31:120--125
(Ord. of 5-5-97)

Sec. 9-303. Terms.

The terms of office for the board of directors shall be for two (2) years on a staggered basis. For the purposes of the first board two (2) members shall be appointed for one-year terms; two (2) members for two-year terms; three (3) members for three-year terms, with the mayor determining who shall fill the first terms. The board shall be comprised of two (2) Main Street Board of Directors both shall operate businesses in the central business service district, one (1) from the city council without regard to ward, four (4) from within central business service district who are actively in for profit business. The board shall elect one of their own as chair who shall serve for one (1) year and may be reelected to that position or continue to serve out their regular terms. All vacancies shall be filled by appointment of the mayor with the approval of the city council. Individuals appointed to fill vacancies caused by resignations etc., shall serve the balance of the unexpired term.

(Ord. of 5-5-97)

Sec. 9-304. Assessment fee.

The directors of the CBSD shall recommend to the city council per RSA 31 any future assessment fee(s) for consideration within the district after the first three-year period of the district's existence under this article.

(Ord. of 5-5-97)

Sec. 9-305. Meetings.

The board shall establish a meeting schedule to determine the nature, extent and funding of any special services needed for the district per RSA 31:122. A quorum shall be a minimum of at least four (4) directors and all motions pertaining to the recommended assessment fee shall be by a two-thirds (2/3) majority of those present and voting. All other board actions will be by a simple majority vote. All meetings shall be properly posted to the requirements of RSA 91A and any other pertinent city resolutions. (Ord. of 5-5-97)