

Business Licensing Ordinance



Town of York, Maine

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November 4, 2014

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ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to amend this Ordinance: November 5, 2019

Certified by the Town Clerk: May - Anne Lyman-Wilson on 11/8/19
(signature) (date)

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SECTION 1: PURPOSE AND SCOPE

1.1 Purpose

The purpose of this Ordinance is to establish a unified licensing process and standard for all types of business licenses which the Town issues. Through this Ordinance the Town seeks to apply reasonable controls on businesses as it seeks to protect public health, safety and welfare.

1.2 Licensed Activities

No person or business shall engage in any of the following activities unless they possess a valid Town business license to do so. Section references point to license-specific requirements of this Ordinance.

Lodging

- Bed and Breakfast (see §4.2.1)
- Innkeepers (see §4.2.2)

Food and Beverage

- Food Service (see §4.2.3)
- Liquor (see §4.2.4)
- Bottle Club (see §4.2.5)

Entertainment

- Special Amusement (see §4.2.6)
- Dance Hall (see §4.2.7)
- Coin-Operated Amusement (see §4.2.8)
- Bowling Alley (see §4.2.9)

Miscellaneous

- Transient Sellers (see §4.2.10)
- Flea Market (see §4.2.11)
- Junkyard, Automobile Graveyard, and Automobile Recycling Business (see §4.2.12)
- Medical Marijuana License (see §4.2.13)

For local approvals required for State licenses, see also:

- Bingo, Beano and Games of Chance (see §4.3.1)
- Off-premise Catering (see §4.3.2)

SECTION 2: GENERAL PROVISIONS

2.1 Licensing Authority

The Board of Selectmen shall serve as the Town's licensing board.

2.2 Licenses Not Transferrable

A license shall be specific to the applicant and the property, and shall not be transferrable to another person or property.

2.3 License Expiration

All licenses shall expire one year from the last day of the month of the vote to issue or renew, except that in the case of an applicant with multiple licenses where the Board shall ensure that all licenses have a single expiration date to simplify future renewals. In addition, the Board may, for good cause, shorten the timeframe for which a particular license is issued.

2.4 Display of License Placard Required

When the Board issues a new license, renews a license, or amends a license, the Town Manager's Office shall issue a new printed license placard. This license placard shall be displayed at the licensed establishment such that it is readily visible to customers, people at the establishment, and Town officials.

The license placard shall indicate the following information:

- applicant's name
- establishment name;
- street address of establishment;
- license type(s);
- date of license issuance;
- date of license expiration;
- if applicable, seating capacity or occupancy limits; and
- other limits or restrictions specified by the Board.

2.5 Inspections

Inspections are mandatory for most licensed businesses. The following shall apply.

2.5.1 Required Inspections

Each establishment shall be inspected by Town staff as a condition of the issuance of new license or for renewal. For each license type, the Ordinance specifies which departments are required to inspect and describes the frequency and nature of inspections (see Section 4.2). Submittal of an application to the Town Manager's Office constitutes agreement to make the premises available for inspection during normal working hours. Such inspections shall generally be conducted prior to action by the Board of Selectmen, but may be deferred by the Board if the operation is seasonal and not open at the time of application, or for other good cause.

- A. **Code Inspection.** Code inspections are to be conducted by a Code Enforcement Officer (CEO). The purpose of code inspection is to look for signs of septic failure/septic tank pumping/grease trap cleaning (as applicable), to look for code-related problems such as exposed wiring or faulty plumbing, and to look for compliance with standards and requirements of this Ordinance and applicable permits and approvals. For a new or expanded establishment, the CEO shall also verify the possession of a valid Occupancy Permit from the Town.
- B. **Fire Inspection.** Fire inspections are to be conducted by the fire department with jurisdiction. The purpose of fire inspection is to ensure initial and ongoing compliance with life/safety code requirements, with a focus on safe means of egress, exit signs, emergency lighting, audible alarms, building sprinkling, provision of fire extinguishers, and other such matters. For a new or expanded establishment, the fire inspector shall also verify compliance the possession of any approvals needed from the State Fire Marshal's Office.
- C. **Police Inspection.** Police inspections are to be conducted by York Police Officers. The purpose of police inspection is to help prevent violations within their jurisdiction, such as but not limited to liquor laws and the Noise Ordinance.

2.5.2 Optional Inspections

Any Town department which has been assigned inspection responsibilities with respect to license issuance shall also have the authority to make an unannounced inspection during open hours of the establishment. The license holder shall accommodate this request unless there is reasonable cause to delay the matter.

2.6 Application Fee

The application fee shall be paid at the time of application submittal, and shall be non-refundable. The following shall apply.

2.6.1 New Licenses and Renewals

The fee shall be the sum of the following:

- A. \$60; plus
- B. \$30 for each license after the first; plus
- C. \$50 if a public hearing is required by the Ordinance.

2.6.2 License Amendments

The fee for a license amendment shall be \$25.

2.7 Saving Clause

In the event any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance.

2.8 Effective Date

Except as otherwise provided, this code and any subsequent amendments shall take effect immediately upon approval by the voters of the Town of York.

SECTION 3: APPLICATION PROCESS

3.1 Application Procedures

An application shall be submitted to obtain a new license, renew an existing license, or amend an existing license. The review process is identical for each of these procedures with the exception of the public hearing (see §3.6).

3.1.1 Application Form and Instructions

The Board shall adopt, and may from time to time amend, an application form and printed application instructions. These shall be available in the Town Manager's Office and on the Town's web page.

3.1.2 Transition Period

A. Existing Licenses

Any license issued under prior licensing codes shall remain in effect for either one year or until the current license expires, whichever occurs first.

B. Applications in Process

Any complete application which has been received by Town staff, but not yet decided by the Board of Selectmen at the time this Ordinance is enacted or amended, shall be heard and decided based on the codes in effect at the time of receipt by Town staff.

C. Exception for Newly Regulated Establishments

In cases where a Town license had not been required of an establishment in the past, a newly required license shall be obtained no later than 6 months after the date of enactment of the relevant code provision.

3.2 Submittal of Application

The applicant shall complete and submit to the Town the application form along with all supplemental information and materials per the instructions included with the form. Application materials shall be delivered to the Town Manager's Office by any of the following means:

- 3.2.1 Delivered in person to the Town Manager's Office in Town Hall during normal business hours; or
- 3.2.2 Delivered by mail to: Town Manager/License Application, 186 York St., York, ME 03909

3.3 Timing of Application

3.3.1 New Licenses and License Amendments

The application for a new or amended license may be submitted at any time, but the license must be obtained before the licensed activity is started. Generally it is best to apply 30 to 60 days in advance of the anticipated start date.

3.3.2 License Renewals

An application for license renewal shall be submitted no sooner than 90 days prior to expiration of the current license(s). It is advised to apply no later than 30 days prior the expiration date.

3.4 Administrative Review of Application

The Town Manager's Office shall initiate an administrative review of the application by the Departments as specified in this Ordinance. Copies of the application shall be distributed to: any department which is required to evaluate the application and/or perform an inspection; the Police Department for information about any criminal record of the applicant (where applicable); to the Tax Collector for verification that all taxes have been paid for the property and business in question; and to any applicable utility district serving the property.

3.5 Public Notice

Prior to the Board meeting at which the application will be considered, the Town Manager's Office shall provide public notice in accordance with the following:

3.5.1 Agenda

An agenda for the meeting shall be posted in Town Hall no later than noon the Friday prior to the Board meeting. This agenda shall identify the name of the applicant, the name of the property owner (if different than the applicant), the street address of the property, and the list of licenses being applied for.

3.5.2 Legal Notice if a Public Hearing

If there is to be a public hearing, legal notice of the hearing shall be required. Such notice shall indicate the same information as included on the agenda, plus the date, time and place of the hearing. No later than 5 days in advance of the meeting, the notice shall be: published in a newspaper with general circulation in Town; posted in at least 2 public places in Town; posted on the Town's web page; and listed on the Town's public access cable television station.

3.5.3 Notice to Applicant

The applicant shall be notified by first-class mail of the Board meeting at which the Board will act on the application. If there is to be a public hearing, the applicant shall be asked to attend if a public hearing in case there are questions to be answered.

3.5.4 Conflicting Provision

In the event there are conflicting requirements in state statute or another ordinance, the standard which imposes the higher standard for public notification shall apply.

3.6 Public Hearing

The Board shall conduct a public hearing prior to deciding on an application for a new license or to amend an existing license. The public hearing is an opportunity for the public to offer input to the Board, either speaking at the hearing or by providing written comments to be read at the meeting.

3.7 Decision

The Board shall vote to make one of the following decisions.

3.7.1 Approval

The Board shall grant approval of an application when the applicant demonstrates full compliance with this Ordinance and other applicable Town codes. Conditions may be imposed by the Board to achieve the purposes of this Ordinance and other applicable Town codes, as follows:

- A. Conditions Precedent. The Board may impose conditions precedent to ensure the applicant fulfills certain obligations prior to receipt of the license. (Example: septic tank to be pumped before the license is issued.)
- B. Conditions Subsequent. The Board may impose conditions subsequent to ensure the licensed activity will comply with specified parameters. (Example: outside lights shall be turned off no later than 30 minutes after the close of business each night.)

3.7.2 Denial

Except as provided below, the Board shall deny an application that has not demonstrated compliance with the requirements of this Ordinance and other relevant Town ordinances. The motion to deny must identify the specific reason(s) for denial.

- A. Life Safety 101 Code. With a corrective plan approved in writing by the Fire Chief, an applicant may be allowed not more than 3 years to fully remedy identified Life Safety 101 Code violations, and licenses may be issued during this time.
- B. Consent Agreements. Where a Consent Agreement with the Board of Selectmen allows a violation to persist for a period of time before being fully remedied, licenses may be issued during this time.

3.8 Appeals

Any decision, action, or inaction pertaining to this Ordinance by the Board may be appealed to York County Superior Court, unless otherwise specified by license type per §4.2. Any appeal must be filed within 30 days of the decision or action being appealed.

3.9 Enforcement

Enforcement of this Ordinance shall be as follows.

3.9.1 Enforcement Responsibilities

Enforcement authority pursuant to this Ordinance varies by license type, and is specified for each license type as being the Code Enforcement Officer (CEO), a York Police Officer, or the Fire Chief with jurisdiction or their designee. In the event CEO enforcement action is required at a time when a CEO is not working, a

Police Officer may initiate necessary enforcement action until such time as the matter can be turned over to a CEO. Reference in this Ordinance to the enforcement authority of the Fire Chiefs in no way diminishes their authority under Life Safety 101 and other applicable codes and statutes.

3.9.2 Enforcement Actions

Actions taken to enforce this Ordinance shall generally follow the sequence provided here, except that steps may be skipped in the event there is an expectation that delay would cause significant harm to public health or safety.

A. Reminder

When a business fails to obtain a license, renew its license(s) in a timely manner, or fails to comply with conditions of its license or the provisions of this Ordinance, the Town Manager's Office shall contact the person to remind them of the requirement to obtain a license, renew their license or to comply with the license requirements. If the lapse in license(s) exceeds 60 days this matter shall be turned over to the designated enforcement authority for formal enforcement action.

B. Verbal Warning

Provide a verbal warning to the license holder and any other relevant parties citing the specific violation and advising them to cease the violation. All verbal warnings shall be documented in writing following delivery.

C. Notice of Violation

In the event the Verbal Warning does not result in compliance, a Notice of Violation and Order for Corrective Action shall be issued. This Notice shall document the violations in terms of actions and code sections violated, and shall order the violation to cease immediately unless a later deadline is expressly included. This shall be delivered in person or by any means where receipt is documented in writing (such as certified mail/return receipt requested).

D. Board of Selectmen's Action

In the event the Notice of Violation and Order for Corrective Action does not result in compliance, the matter shall be documented in writing and turned over to the Board. For any violation forwarded to the Board and not resolved within 7 working days thereafter, the Board shall schedule a public hearing on the matter. Public notice shall meet the requirements as specified in §3.5, except that the license holder shall be notified by certified mail or an equivalent means, sent at least 7 days prior to the public hearing. If the Board chooses to take enforcement action, it shall have the authority to take any of the following actions, which is not necessarily a sequence of steps but rather a list of options:

1. Suspend License. The Board may suspend the license(s) for a fixed period of time not to exceed 30 days. No license may be suspended more than once per year.

2. Revoke License. The Board may revoke the license(s). If revoked, the license holder shall not re-apply for a new license within 60 days of the Board's vote.
3. Prosecute. The Board may initiate any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate and necessary to enforce the provisions of this Ordinance in the name of the Town. If prosecution is successful, the Town shall not accept any applications for a new or renewed license within 120 days of the Court Decision.

3.10 Penalties

Any person who violates this ordinance shall be subject to a civil penalty of \$100.00 per day per violation for the first offense, \$250.00 per day per violation for the second offense and subsequent offenses within a 2 year period. The “per day” period shall begin at the first date on which the violation can be demonstrated.

3.11 Waiver / Payment of Fines

Any person charged with a violation of this section, shall be allowed to waive such violation and tender to the Town of York the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officer shall be required. If the offender pays the waiver fine, the matter will be closed in the York Police Records system and listed as a subsequent offense for future violations.

If the offender chooses not to pay the waiver fine, he/she shall appear in court on the specified date to answer for the ordinance violation. If the offender is found to have committed the offense in court, fines, applicable court fees, attorney's fees, and prosecution costs may apply.

SECTION 4: STANDARDS

4.1 General Standards and Requirements Applicable to All Licenses

The following shall be considered prior to any license-related actions by the Board, and compliance shall be required throughout the license period. Failure to comply with these standards and requirements shall be a basis for enforcement action pursuant to this Ordinance.

4.1.1 Character of the Applicant

No license shall be issued to anyone who has not demonstrated good moral character. In determining good moral character, the Board shall consider all evidence presented. This shall include, but not be limited to the following:

- A. The applicant's police record, if any. Conviction of a Class D or more serious crime may be considered as evidence that the applicant lacks good moral character.
- B. The applicant's past and present compliance with the provisions of this Ordinance and other applicable Town and State codes, and with requirements of any utility districts which provide service.

4.1.2 Taxes and Fees Paid

All property taxes, personal property taxes and any Town fees shall be paid in full before the license is issued. Compliance shall be verified by the Tax Collector before issuance, renewal or amendment of a license.

4.1.3 On-Site Septic

If the licensed establishment utilizes a septic system, compliance with Town septic tank pumping requirements shall be required. Compliance shall be verified by the CEO before the Board issues, renews or amends a license.

4.1.4 Grease Traps

If the licensed establishment utilizes a grease trap, compliance with cleaning requirements of State and/or local plumbing codes shall be required. Compliance shall be verified by the CEO before the Board issues, renews or amends a license.

4.1.5 Land Use Compliance

The licensed activity shall occur on a property permitted, approved or grandfathered for the use. Compliance shall be verified by the CEO before the Board issues or amends a license.

4.1.6 Code Compliance

All license holders shall comply with all Town codes, including but not limited to the Noise Ordinance. Compliance shall be verified by the CEO before the Board issues, renews or amends a license. If a violation has been cited in writing, it shall be resolved before the Board issues, renews or amends a license.

4.1.7 Life Safety Code Compliance

For any license which requires a fire inspection, the purpose of such inspection shall be to ensure compliance with Life Safety 101 Code requirements.

4.1.8 Nudity

The purpose of this section is to regulate nudity as a form of live entertainment in those establishments which are licensed under this Ordinance.

- A. No license holder shall permit entertainment on the licensed premises, whether provided by professional entertainers, employees of the establishment, or any other person, when such entertainment involves any of the following:
 1. the performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
 2. the actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals; and/or
 3. the actual or simulated displaying of the genitals, pubic hair, buttocks, anus, or any portion of the female breasts at or below the areola.
- B. No license holder shall permit any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or any portion of the female breasts at or below the areola.

For the purpose of this section, “display” or “displaying,” and “expose” or “exposing” shall mean unclothed or un-costumed or not covered by a fully opaque material.

4.2 License-Specific Standards and Requirements

The following are standards and requirements unique to each type of license issued by the Town. These are required in addition to other standards specified in this Ordinance. For other instances when the Board is required to act on a local license (such as but not limited to closing out sales, billiard rooms, etc.), the Board shall apply the general standards of this Ordinance and any applicable statutory requirements.

4.2.1 Bed and Breakfast License

This license shall be required for operation of a Bed and Breakfast as defined in the York Zoning Ordinance. The following shall apply:

- A. Inspections Required:
 1. Code Inspection - annual.
 2. Fire Inspection - annual.
- B. Concurrent Food Service License. The Bed and Breakfast License implicitly includes food preparation, so a separate Food Service License from the Town shall not be required, but all standards pertaining to the Food Service License shall apply.
- C. Concurrent Liquor License. If liquor is to be sold, a separate Liquor License is required per Title 28-A M.R.S. §1061-A.

- D. State Licenses. A State Bed and Breakfast License from the Maine Department of Health and Human Services shall be required. Possession of a Lodging Place License or an Eating and Lodging License is not an acceptable alternative. A license from the Maine State Fire Marshal's Office shall also be required.
- E. Verification of Use for Transient Occupancy. For license renewals, the code inspection shall include a review of the records of guest registration and departure during the prior license year to ensure that all guest stays comply with requirements for transient occupancy if so limited by the Zoning Ordinance.
- F. Related Laws. See Zoning Ordinance, Section 7.7.
- G. Statutory Authority. Home rule authority.
- H. Enforcement Authority. CEO and Fire Chief.
- I. Appeals. The Board of Appeals shall have jurisdiction to hear appeals of Board decisions regarding Bed and Breakfast Licenses.

4.2.2 Innkeeper's License

This license shall be required for operation of a Hotel, Motel or Inn as defined in the York Zoning Ordinance or Life Safety 101 Code, whichever is more broadly defined. The following shall apply:

- A. Inspections Required:
 1. Code Inspection - annual.
 2. Fire Inspection - annual.
- B. State License. A State Lodging Place License or an Eating and Lodging License shall be required.
- C. Verification of Use for Transient Occupancy. For license renewals, the code inspection shall include a review of the records of guest registration and departure during the prior license year to ensure that all guest stays comply with requirements for transient occupancy if so limited by the Zoning Ordinance.
- D. Related Laws. See Title 30-A M.R.S. §3801 et seq.
- E. Statutory Authority. Mandated per Title 30-A M.R.S. §3811.
- F. Enforcement Authority. CEO and Fire Chief.

4.2.3 Food Service License

This license shall be required for any person who prepares and offers for sale food or drink for public consumption on-site (restaurant) or off-site (take-out restaurant), but not for the preparation of packaged foods. This License was formerly called the Victualers License. The following shall apply:

- A. The purpose of this license is solely to ensure compliance with the general standards imposed on all licensed businesses. This is not a health-related permit and the Town will not engage in health-related inspection of the premises because the Town does not have certified health inspectors as would be required to inspect per Title 22 M.R.S. §2499.
- B. Inspections Required:
 - 1. Code Inspection - annual.
 - 2. Fire Inspection - annual.
- C. State License. A State Eating Establishment License or an Eating and Lodging License shall be required per Title 22 M.R.S. §2492(1).
- D. Statutory Authority. Home Rule Authority.
- E. Enforcement Authority. CEO and Fire Chief.

4.2.4 Liquor License

This license is required for the sale of liquor (as defined in Title 28-A M.R.S. §2) to be consumed on the premises. The following shall apply:

- A. Inspections Required:
 - 1. Fire Inspection - annual.
 - 2. Police Inspection - annual.
- B. State License. A Maine Liquor License per Title 28-A M.R.S. §1051(1) from the Maine Bureau of Alcoholic Beverages and Lottery Operations, or other state or federal license if the liquor is manufactured on-site, shall be required.
- C. Statutory Authority. Title 28-A M.R.S. §1051(2).
- D. Enforcement Authority. York Police Department and Fire Chief.

4.2.5 Bottle Club License

This license shall be required for any Bottle Club, as defined in Title 28-A M.R.S. §2(3). The following shall apply:

- A. Additional Public Notice Requirement. See Title 28-A M.R.S. §161-B(2) because it requires greater public notice than the general standards of this Ordinance.
- B. Inspections Required:
 - 1. Fire Inspection – annual.
 - 2. Police – annual.
- C. State Registration. A bottle club shall register annually with the Maine Bureau of Alcoholic Beverages and Lottery Operations. This shall be verified by the Police Department prior to license renewal.

- D. Restriction on Hours of Operation. No bottle club shall operate between the hours of 2:00 AM and 6:00 AM on January 1st, or between the hours of 1:00 AM and 6:00 AM on other days. The operator of a bottle club shall require all members, guests or other patrons to vacate the premises by 2:15 AM on January 1st and by 1:15 AM on all other days.
- E. Related Laws. See Title 28-A §161-162.
- F. Statutory Authority. Title 28-A M.R.S. §161-B(4).
- G. Enforcement Authority. York Police Department and Fire Chief.
- H. Appeals. The Maine Bureau of Alcoholic Beverages and Lottery Operations shall have jurisdiction to hear appeals of actions by the Board per Title 28-A M.R.S. §161-B(4). Appeals relating to administration or enforcement shall be filed with the York County Superior Court.

4.2.6 Special Amusement License

This license shall be required for an establishment where liquor is sold for on-site consumption and which also provides live music, dancing, and/or entertainment of any kind. The following shall apply:

- A. Inspections Required:
 - 1. Code Inspection – annual.
 - 2. Fire Inspection – annual.
 - 3. Police Inspection – annual.
- B. State License. State Liquor License is required. If dancing is involved, a Dance Hall license from the Maine State Fire Marshal shall also be required. To be verified annually for license renewal.
- C. Performance Standard. Music, dancing and entertainment shall occur entirely indoors, and all doors and windows shall be closed after 9:00 PM and before 9:00 AM. Establishments with Special Amusement Licenses that date back prior to the establishment of this standard shall be vested in their right to continue with past practice provided there has been no gap of 2 years or more in their past licensing.
- D. Concurrent Licenses. Town Liquor License shall also be required.
- E. Related Laws. Title 28-A M.R.S. §1054.
- F. Statutory Authority. Title 28-A M.R.S. §1054(2).
- G. Enforcement Authority. CEO, York Police Department and Fire Chief.
- H. Appeals. The Board of Appeals shall have jurisdiction to hear appeals - see Town of York Home Rule Charter Article IV, Section 7(C)(4) and Title 28-A M.R.S. §1054(8).

4.2.7 Dance Hall License

This license shall be required for any establishment with public dancing that is subject to State licensing under Title 8 M.R.S. §161, unless that establishment has a Special Amusement License. The following shall apply:

- A. Inspections Required:
 1. Fire Inspection - annual.
 2. Police Inspection - annual.
- B. State License. A permit from the State Fire Marshal shall be required.
- C. Statutory Authority. Home rule authority.
- D. Enforcement Authority. York Police Department and Fire Chief.

4.2.8 Coin-Operated Amusement License

This license shall be required for any pin ball machines or video games offered for public entertainment for a fee. The following shall apply:

- A. Inspections Required:
 1. Police Inspection - annual.
- B. Number of Devices. This license shall not limit the number of devices at a particular location, nor shall the application fee be based on the number of devices.
- C. Statutory Authority. Generally see Title 8 M.R.S. §441 – 450. Requirement for this license is established in Title 8 M.R.S. §441. For specific authorization for the Board to issue such licenses, see Title 8 M.R.S. §446-A.
- D. Copy of License to Police Department. Upon issuance of a Coin-Operated Amusement License, a copy of the License shall be forwarded to the York Police Department per Title 8 M.R.S. §448.
- E. Enforcement Authority. York Police Department.

4.2.9 Bowling Alley License

This license shall be required for the operation of any bowling alley. The following shall apply:

- A. Inspections Required:
 1. Fire Inspection - annual.
- A. Statutory Authority. Title 8 M.R.S. §2.
- B. Enforcement Authority. CEO and Fire Chief.

4.2.10 Transient Sellers License

This license shall be required of any Transient Seller. The following shall apply.

- A. Inspections Required: none.
- B. Definitions. In the context of Transient Sellers Licenses, the definitions of Title 32, M.R.S. §14701 shall apply, except as provided below:
 1. Transient Seller. Any person who engages in the business of selling merchandise and/or services to consumers by means of personal contact and who does not have, for the purposes of carrying on such business, any permanent place of business within the Town of York. This shall not include:
 - a person who sells at public fairs, expositions or bazaars;
 - a person who sells exclusively by mail contact, except for a person who offers merchandise or money prizes free of charge, such as contest prizes or gifts for answering a survey, but who requires the recipient to pay something of value in order to participate in this offer, including, but not limited to entrance fees, processing fees or handling charges; or
 - a member selling on behalf of a public service organization;
 - a supervised lender as defined in Title 9-A M.R.S. §1-301(39).
 2. Public Service Organization. Any organization classified as a 501.C.3 under the Internal Revenue Code, and other non-profit and community service groups such as the Boy Scouts, Girl Scouts, American Legion, Rotary Club, public school groups and religious organizations.
- C. Police Department Review. Prior to issuance of a Transient Sellers License, input from the Police Department shall be obtained regarding the proposed activity.
- D. Performance Standards. The following shall apply:
 1. Registration. Licensees shall be registered with the Maine Department of Professional and Financial Regulations.
 2. Identification. When engaged in transient sales, licensees or an agent/designee shall carry a current Maine Transient Sellers registration, and a picture ID approved by the York Police Department, attached to the outside of their clothing and clearly visible at all times.
 3. Hours of Solicitation. Solicitation of door-to-door sales shall only take place Monday through Saturday between the hours of 9:00 AM and 5:00 PM, but no later than sunset.
 4. License Duration. The Board shall determine the duration for this license based on the needs of the applicant and the recommendation of the Police Department. In no case shall this exceed the limit established in §2.3.
- E. Related Laws. Title 32 M.R.S. §14701-14716.

F. Statutory Authority. Title 32 M.R.S. §14705 and home rule authority.

G. Enforcement Authority. York Police Department.

4.2.11 Flea Market License

This license shall be required for operation of a flea market, as defined in the York Zoning Ordinance. The following shall apply.

A. Inspections Required: none.

B. Public Safety Review. Prior to issuance of a new or amended Flea Market License, input from the Police Department and Fire Department of jurisdiction shall be obtained regarding the layout of the flea market and each of the performance standards listed below.

C. Performance Standards. In addition to any requirements imposed by other Town codes, the following shall apply:

1. Access. There shall be only one vehicular access to the site unless more are requested by Police or Fire to improve public safety.

2. Control Along Road Frontage. All road frontage, except at the entrance, shall be curbed, fenced or otherwise barricaded to control unauthorized vehicle access to the site.

3. On-Site Parking. Three on-site customer parking spaces shall be provided per vendor.

4. Sanitary Facilities. Separate male and female sanitary facilities shall be provided for public use.

5. Storage. All displays, tables, goods, rubbish containers, chairs and other such materials shall be stored within a building when sales are not occurring.

D. Related Laws. See Zoning Ordinance.

E. Statutory Authority. Home rule authority.

F. Enforcement Authority. CEO.

4.2.12 Junkyard, Automobile Graveyard, and Automobile Recycling Business License

This license shall be required for the establishment, operation or maintenance of a junkyard, automobile graveyard, and/or automobile recycling business, as these terms are defined in Title 30-A M.R.S. §3751. The following shall apply:

- A. Inspections Required:
 - 1. Code Inspection – annual.
 - 2. Fire Inspection – annual.
 - 3. Police Inspection – annual.
- B. Statutory Authority. Title 30-A M.R.S. §3753.
- C. Related Laws. See also the Zoning Ordinance, and Title 30-A M.R.S. §3751-3760, and Title 29-A M.R.S. §1101-1112.
- C. Enforcement Authority. CEO, York Police Department and Fire Chief.

4.2.13 Medical Marijuana Grower License

This license shall be required for a Medical Marijuana Registered Dispensary or Medical Marijuana Manufacturing Facility. The following shall apply:

- A. Inspections Required:
 - 1. Police Inspection – at initial licensing to ensure security meets State requirements.
- B. Definitions.
 - 1. Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1, “Marijuana.”
 - 2. Medical Marijuana Caregiver: A person or an assistant of that person that provides care for a qualifying patient in accordance with Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act, section 2423-A, subsection 2.
 - 3. Medical Marijuana Registered Dispensary. An entity registered under MRS Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.
 - 4. Medical Marijuana Manufacturing Facility. A facility used for cultivating, processing, and/or storing medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver’s primary year-round residence or their patient’s primary year-round residence; the facility can also be used for the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. A Medical Marijuana Manufacturing Facility shall be either a registered tier 1 or tier 2

manufacturing facility that may contain a person(s) authorized to engage in marijuana extraction as specified under section 2423-F of **Title 22, Chapter 558-C: Maine Medical Use of Marijuana Act.**

5. **Medical Marijuana Product:** A product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. Medical Marijuana Product" does not include Marijuana Concentrate.
6. **Medical Marijuana Testing Facility:** A public or private laboratory that:
 - a. Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and
 - b. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department.

C. **State Authorization.** Prior to issuance, renewal or amendment of a License, the applicant must demonstrate State of Maine authorization under the Maine Use of Medical Marijuana Program. Loss of such State authorization shall automatically invalidate the Town-issued License.

D. **Related Laws.** See: Zoning Ordinance; Title 22 M.R.S. Chapter 558-C, Maine Medical Use of Marijuana Act; 10-144 C.M.R. Chapter 122, Rules Governing the Maine Medical Use of Marijuana Program.

E. **Statutory Authority.** Home rule authority.

F. **Enforcement Authority.** York Police Department.

4.3 Local Approval For State Licenses

For any State license which requires local approval but for which no local license is required, the Board of Selectmen shall place the request on a meeting agenda and shall act on that item without the need for any local application, fee or public hearing.

4.3.1 Bingo, Beano and Games of Chance License

To obtain necessary State licenses, local approval is required for any organizations which offer bingo, beano and/or games of chance. The Board typically issues an annual blanket approval for all organizations which offer these games to help streamline the process for all parties. The following shall apply:

- A. **State License.** Licenses from the Chief of the Maine State Police - Bingo and Beano License per Title 17 M.R.S. §312, and/or Games of Chance License per Title 17 M.R.S. §1832. These licenses are issued after local approval.

B. Statutory Requirement for Local Approval. Regarding Bingo and Beano – see Title 17 M.R.S. §313. Regarding Games of Chance – see Title 17 §1832(4). For general standards see Title 17 M.R.S. §311-329 (bingo & beano) and §1831-1846 (games of chance).

C. Enforcement Authority. York Police Department.

4.3.2 Off-Premise Catering License

This license is required for an establishment with a Liquor License to sell liquor at a location other than their licensed place of business, such as at a catered event. This approval is specific to the caterer, the date of the event, and the property. The following shall apply:

- A. State License. State Liquor License and Special Permit for Catering Privileges. The Special Permit is not available before local approval is granted.
- B. Related Law. See Commercial Functions on Residential Lots Accessory to Residential Use – Zoning Ordinance §7.17, if applicable.
- C. Designation of Authority to Town Manager and Reduced Public Notice Requirement. Because these approvals may be required with very little advance notice, the Town Manager shall be designated to provide local approval without advance public notice on behalf of the Board, as allowed by Title 28-A M.R.S. §1052(4)(G). The Board shall receive copies of any such approvals granted by the Town Manager at or before the next regularly scheduled meeting of the Board.
- D. Statutory Authority. Title 28-A M.R.S. §1052.
- D. Enforcement Authority. York Police Department.

SECTION 5: DEFINITIONS

The following definitions shall apply in this Ordinance:

APPLICANT: During the application process, “applicant” is defined as follows:

1. The principal owner of the establishment is the applicant. If a corporation is the principal owner, then the principal stockholder of the corporation is the applicant.
2. If the principal owner is not primarily responsible for the actual operation of the establishment, then the person (or people) primarily responsible for the actual operation of the establishment shall be included as a co-applicant.

BOARD: The Board of Selectmen.

CEO: Code Enforcement Officer. Any of the individuals appointed by the Board of Selectmen to fulfill duties of code enforcement within the Town.

CONDITION PRECEDENT: A condition imposed at the time of approval, with which the applicant shall comply before the license is issued.

CONDITION SUBSEQUENT: A condition imposed at the time of approval, with which the applicant shall comply after the approval is issued.

FIRE DEPARTMENT: Either the York Beach Fire Department or the York Village Fire Department, whichever has jurisdiction at the location of the licensed activity.

LICENSE: A grant of authority from the Board to an applicant and their establishment to conduct a particular activity on a particular property pursuant to this Ordinance and/or state law.

LICENSE AMENDMENT: A change to the activity being licensed.

LICENSE HOLDER: Same as “Applicant,” but after completion of the application process and issuance of the license.