

Chapter 15

LICENSES AND PERMITS

Art. I. In General, §§ 15-1 – 15-14

ARTICLE I. IN GENERAL

Sec. 15-1. Definitions.

Words used in this chapter shall have their common meanings except that, as used in this chapter or in chapters related to this chapter, the following terms shall have the meanings set forth in this section, unless the particular licensing provision, or the context in which the terms appears, clearly establishes that a different meaning was intended:

Actual ownership interests shall mean and include any legal or equitable interest in either the licensed firm, corporation, partnership or other entity, or the assets of that entity which are the subject matter of the license, other than any mortgage or security interest created solely as security for valuable consideration. In the case of stock in a corporation, the terms shall be limited to those persons who individually or collectively have an interest in more than one-half of the voting shares of the corporation. In the case of a limited partnership, the term shall not include ownership of limited partnership shares.

Bona fide nonprofit organization shall mean and include a bona fide nonprofit, charitable, educational, political, civic, recreational, patriotic or religious organization, which is organized under the provisions of 13 M.R.S.A. § 901, or 13-B M.R.S.A. § 201, or which is recognized as such by the Internal Revenue Service under 26 U.S.C.A. § 501(c)(3).

Bottle club means any person operating on a regular basis a premises for social activities in which members or guests provide their own alcoholic beverages.

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

Person aggrieved shall mean and include any person whose license is suspended or revoked or whose license application is denied by the clerk or any other administrative official charged with responsibility for the granting or supervision of any license.

Principal officers shall mean and include the applicant and any officer, director, partner, owner, manager, or person who either has an actual ownership interest in the entity or directs any policy of the entity.

(Code 1968, § 901.3; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 1, 4-23-84; Ord. No. 183-84, 9-24-84)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 15-2. Applicability.

It is the sense of the city council that, to the extent practical, licensing procedures within the city should be uniform, and should be conducted at all times so as to give the maximum degree of protection to the licensee consistent with protection of the public health, safety and welfare. To that end, this chapter shall apply to all licenses and permits issuable by the city through the city clerk, and all licenses and permits issued by the state to which the city council have a right or duty to offer recommendations, comments, or to consent, set forth in this Code. Notwithstanding the aforesaid, any more stringent licensing or other requirement of this Code which is not inconsistent with this chapter, shall be deemed to be an additional requirement of this chapter.

(Code 1968, § 901.1; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 2, 4-23-84)

Sec. 15-3. License required.

(a) No person shall engage in, operate any business, or use or permit the use of any device for which one (1) or more licenses are required by this Code or permit others operating under such licenses to act, without having obtained each and every such license required therein and shall not operate or use such license or device during any time that the applicable license has been suspended or after revocation as provided herein.

(b) Any person engage in, or operating any business or activity, or who uses or permits the use of any device for which a license is required, shall procure a license for each and every such business activity, device or location of each activity or device unless this Code specifically provides to the contrary.

(c) Every license shall be exhibited in a conspicuous place on the premises, device or vehicle at all times that the premises, device, or vehicle is open to the public.

(Code 1968, § 901.2; Ord. No. 231-80, 12-22-80)

Sec. 15-4. Licensing authority.

(a) All licenses shall be issued, denied, suspended or revoked and all hearings shall be held by the city clerk except as expressly provided in this Code. The clerk is authorized to notify the state licensing division of bureau of alcoholic beverages that the

city council consent to the extension of existing state liquor licenses to city licensees pending the next meeting of the city council.

(Code 1968, § 901.4; Ord. No. 231-80, 12-22-80; Ord. No. 576-81, § 1, 3-16-81; Ord. No. 361-82, 1-4-82; Ord. No. 562-84, § 3, 4-23-84)

Sec. 15-5. Applications.

(a) All applications shall be made in writing on a form provided by the clerk. Each application submitted to the clerk shall state the name and business address of each applicant, the license desired, location to be used, if any, the date of the application, and such additional information as may be deemed necessary or useful by the clerk in determining whether such permit or license applied for should be issued.

(b) Other papers:

(1) Any application for a license for which a criminal conviction is a disqualification under this Code shall be accompanied by a written waiver of the applicant's right to privacy or confidentiality under the State Criminal History Records Act [16 M.R.S.A. § 611 et seq.] and otherwise to the extent necessary for the city clerk, acting through the chief of police, to determine whether or not such disqualification exists.

(2) If the applicant is other than a natural person, the names of all principal officers shall accompany the original application.

(3) A statement to the fact that no employee or officer of the city is beneficially interested in the license or licenses, or in lieu thereof, a statement of the names of such employees or officers as are beneficially interested.

(4) In the case of a renewal, the licensee shall submit to the clerk on a form provided by the clerk, a certified ownership report for the previous twelve (12) month period. Such report, among other things, shall list the names of all persons, or groups of persons acting in concert who at any time during the period had an actual ownership interest.

(5) Any organization claiming status as a bona fide nonprofit organization shall furnish sufficient evidence of such status.

(Code 1968, § 901.5; Ord. No. 231-80, 12-22-80)

Sec. 15-6. Fees.

(a) *Application fees.* Except as expressly provided, all applications for original licenses or for the consent of the city council other than a flea market, temporary FSE or auction, shall be accompanied by an administrative fee of twenty dollars (\$20.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administrative fee of eleven dollars

(\$11.00) to defray the cost of processing the application. The latter shall be refundable if the application is denied. In any case where notice by publication or mail is required, the applicant shall pay the cost of publication and postage in advance.

(b) *Appeals fee.* Appeals from determinations of the clerk shall be accompanied by a filing fee of twenty-five dollars (\$25.00) and the appellant shall also pay the full cost of publication and postage in advance, if such notice is required. For the purposes of this subsection, notice by publication shall be deemed to apply to the hearing on appeal whenever the requirement of publication would exist in the first instance.

(c) *Filing fees.* Whenever any document, other than an application for any license, is required or permitted to be filed with the clerk in connection with any license, and no fee for such filing is otherwise prescribed, the fee for filing such document shall be two dollars (\$2.00) for the first page, and one dollar (\$1.00) for each page thereafter.

(d) *Fees for issuance.* Fees for issuance of licenses shall be as provided in section 15-12.

(e) *Late fees.* An additional fee shall be charged for issuance of any license after expiration of the holder's prior license, unless the application for the renewal license was filed prior to such expiration. The additional fee for issuance or renewal of any license applied for after the applicant has commenced the activity, or has permitted the use of the device to be licensed prior to such issuance, shall be ten dollars (\$10.00) or five (5) percent per month of the fee for issuance, whichever is greater, but shall not exceed the fee specified in this chapter for issuance of that license.

(f) *Proration.* The fee for issuance of an original license, unless issued late as provided in subsection (e), and which is issuable on an annual basis, but which when issued will not give the licensee twelve (12) full months use prior to expiration, shall be reduced by ten (10) percent for each full month that licensee will not have the use of the license, but in no case shall the license fee be reduced by more than fifty (50) percent. Notwithstanding the foregoing, there shall be no proration of the fee for excavators' licenses issued pursuant to chapter 25, article VII of this Code.

(g) *Fees to be cumulative.* Fees provided for in this section shall be deemed cumulative and shall be in addition to any other fee or fees required for the issuance of any permit under section 15-12. Except as specifically provided, such fees shall not be waived, refunded or prorated, except that upon a successful appeal, the clerk shall credit the appeal fee toward the fee for issuance and shall refund any excess; and further, except that if, during the unexpired term of the license, a licensed activity is subsequently prohibited by amendment to the Code, the clerk shall refund to the licensee a portion of the license fee in accordance with the formula for proration of fees set forth in section 15-6(f). Where a maximum license fee is established by the state, the fees set by this chapter

shall be deemed cumulative to the extent of such maximum fee.
(Code 1968, § 901.6; Ord. No. 231-80, § 901.6, 12-22-80; Ord. No. 554-81, § 901.6, 3-2-81; Ord. No. 40-82, 6-21-82; Ord. No. 554-85, 5-14-85; Ord. No. 210-85, § 1, 10-21-85; Ord. No. 30-87, 7-6-87; Ord. No. 424-89, 5-15-89)

Sec. 15-7. Investigation of applicant.

Upon receipt of an application for any license or permit, other than a renewal application substantially identical to the original application, the clerk shall inquire of other city departments, as appropriate, for comments as to whether a license may be granted consistently with the provisions of the laws and ordinances enforced by such departments. In all appropriate cases, the building authority shall verify that the premises to be used for the proposed activity comply with the building code, electrical code, plumbing code and zoning ordinance, and if applicable, state junkyard screening law; the health authority shall cause inspections to be made of the proposed location of any premises dispensing food or liquor; the fire chief shall cause inspection to be made for the purpose of determining if city ordinances, a state law, or state regulations concerning fire and safety have been complied with; and if the license is not issuable to any class of persons, the police chief shall cause an investigation to be made of the principal officers or persons to be licensed. All such persons shall report to the clerk in writing, and copies of any such report shall be deemed a public record.

(Code 1968, § 901.7; Ord. No. 231-80, 12-22-80; Ord. No. 115-84, § 1, 8-6-84)

Sec. 15-8. Standards for denial, suspension or revocation.

(a) *Grounds.* In addition to any other specific provision of this Code authorizing such action, a license or permit may be denied, suspended or revoked upon a determination of the existence of one (1) or more of the following grounds:

- (1) Failure to fully complete the application forms; knowingly making an incorrect statement of a material nature on such form; or failure to supply any additional documentation required or reasonably necessary to determine whether such license is issuable, or failure to pay any fee required hereunder;
- (2) The licensed activity, or persons on the premises for the purpose of participating in the licensed activity, or persons patronizing the licensed device have caused one (1) or more breaches of the peace; or
- (3) There is a clear danger that a breach of the peace will occur if the licensed activity is permitted; or
- (4) The licensed activity or persons patronizing the licensed premises will substantially and adversely affect the peace and quiet of the neighborhood, whether or not residential, or any substantial portion thereof;

- (5) The licensee has violated any provision of this Code in the course of the conduct of the activity or device for which the license or licenses have been applied for, or have been issued; or
- (6) The occurrence of any event subsequent to issuance of the license which event would have been a basis for denial of the license shall be grounds for revocation thereof; or
- (7) The applicant's or licensee's real or personal property taxes, or final judgments due and payable to the city, are determined to be in arrears as of the date of the license or application; or that real or personal property taxes or final judgments due and payable to the city on account of the premises for which application has been made or a license issued have not been paid in full as of the date of the license or application.

(b) *Hearings.*

- (1) Except as expressly provided in this Code, no license to which this chapter applies may be revoked or suspended without prior notice to the licensee, and after a hearing.
- (2) In the case of the suspension or revocation of a license, a hearing shall be given to the licensee and a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included in the notice of hearing. Unexcused failure of licensee to appear at the hearing shall be deemed a waiver of the rights to said hearing.
- (3) Upon a determination that immediate and irreparable harm will be suffered by the public prior to the time that a hearing on suspension or revocation of a license can be scheduled and a finding of probable cause for such suspension or revocation, the city clerk may suspend a license, pending hearing, effective upon the giving of actual notice to the licensee; provided that the clerk shall give an opportunity to be heard as soon as practicable thereafter. At any hearing, the licensee shall be given the opportunity to answer the complaint and to present evidence. The complainant shall also be notified of the hearing and given the opportunity to be heard.
- (4) All suspensions or revocations shall be upon substantial evidence and all hearings shall be conducted with substantial fairness and strict adherence to the rules of evidence shall not be required.
- (5) All hearings on suspension or revocation of licenses shall be held within thirty (30) days of delivery to licensee of the generalized statement of complaint.

(c) *Abandoned licenses.* The applicant shall pay the issuance fee and obtain any license from the clerk within thirty (30) days after it has been approved by the city clerk. Upon failure to pay the issuance fee and obtain the license within said thirty-day period, the approval shall be void and the application deemed abandoned. For good cause shown, the clerk may extend the thirty-day period provided such extension does not result in the issuance of the license being delayed more than one hundred eighty (180) days from its approval by the city clerk.

(Code 1968, § 901.8; Ord. No. 231-80, 12-22-80; Ord. No. 291-83, 12-5-83; Ord. No. 562-84, §§ 4,5,4-23-84; Ord. No. 196-88, 11-7-88)

Sec. 15-9. Appeals.

(a) *Procedure.* An appeal to the city manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the clerk by filing a notice of appeal and the prescribed fee with the city manager within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. Within two (2) business days of the filing of an appeal, the city manager shall designate himself or any agent or employee to act as hearing designee in the appeal. The hearing designee shall hear the appeal within ten (10) business days after the filing of the appeal and may affirm, reverse or modify the decision appealed from. The taking of an appeal shall not stay a decision appealed from, except that at the request of the licensee, the clerk may stay the effective date of a suspension, revocation or denial of a renewal license upon a finding that the public is not likely to suffer any harm during the pendency of the appeal. In such case, the clerk shall make a written finding of his or her decision in this regard and shall notify the appellant.

(b) *Scope of review.* On appeal, the hearing officer shall review the decision of the clerk and any disciplinary action taken pursuant thereto to determine whether the decision was based upon substantial evidence and the disciplinary action taken was proportionate to the violation. The hearing officer may take additional evidence with respect to such decision or action and if additional testimony or evidence is taken shall determine the appeal upon all of the evidence, except as provided in this section.

(c) *Appeal to the superior court.* Any person aggrieved by a decision of a hearing officer on appeal may appeal therefrom to the superior court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

(Code 1968, § 901.9; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 6, 4-23-84, 9-24-84)

Sec. 15-10. Notices of hearing.

(a) *Content.* Whenever a public hearing is required, the clerk shall give notice of the time and place of the hearing, the type of license involved, and the nature of the hearing, and the address or location of the property involved.

(b) *Service.* Except as expressly provided, whenever notice by mail is required, such notice shall be mailed by regular United States mail at least ten (10) days in advance of the hearing date. When notice by publication is required, such notice shall be published in a newspaper of general circulation in the city at least once, not more than thirty (30), nor less than seven (7) days before the date of the hearing. Where notice to abutters is required, all owners or occupants of property within five hundred (500) feet of such parcel or tract shall be deemed to be abutters, and service shall be made by ordinary mail at least seven (7) days before the date of the hearing. In the case of abutters, the owners and occupants of property listed in the assessor's records on the last tax date prior thereto, shall be deemed to be the persons to whom notice is to be given. The clerk shall take reasonable measures to notify renters in close proximity.

(c) *Notice requirements not mandatory.* Failure of any person other than the applicant or licensee to receive a notice of the public hearing shall not necessitate another hearing and shall not invalidate any action taken as a result thereof, except as otherwise expressly provided by law. (Code 1968, § 901.10; Ord. No. 231-80, 12-2-80)

Sec. 15-11. License not to be transferable.

(a) No license shall be transferred to any person, to any location, or to any other vehicle or device, and no license fee shall be refunded if the licensed activity is ceased prior to the expiration of the license. All purported transfers not in accordance with this section are void. A license shall be deemed the subject of an attempted transfer whenever there is a sale of the business, vehicle or device, or where there is a change in actual ownership interest. Upon any such event, the licensee shall immediately surrender the license to the clerk; except that, in the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupted licensee or licensee receivership may retain the license and operate under the same for the benefit of the estate with the written permission and approval of the clerk until such time as such operation is no longer needed to benefit the estate. Thereafter, such personal representatives, receivers, or trustees shall either return the license to the clerk or transfer same to any other person, under order of the court having jurisdiction and upon written notice to the clerk. In the interim, between the death of the licensee and the appointment of an executor or administrator, or in cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license upon written notice to the clerk. Duly appointed and qualified guardians and conservators of the estate of a licensee may retain the license of their ward during the term of office upon written notice to the clerk.

(b) In all cases arising out of this section in which the clerk is required to determine the identity or composition of or ownership interests in an applicant or licensee, or to determine whether a transfer of an ownership interest in an applicant or licensee has taken place, he shall look to the substance rather than the form of transactions and any person aggrieved may appeal the clerk's determination to the city manager.

BUSINESS LICENSES

Sec. 15-12. Fees and expiration dates.

(a) Fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

<i>Location in code</i>	<i>Description</i>	<i>Fee</i>	<i>Expiration Date</i>
Ch. 4, Art. II	Amusement devices: Pinball machines, per Device	\$ 27.50	June 30
Ch. 11, Art. II	Food service establishments (FSE): <u>Temporary FSE</u>	25.30	Per event
	<u>Mobile FSE</u>	25.30	June 30
	Base station (for <u>Mobile FSE</u>)	25.30	June 30
	FSE-Food preparation <u>on premises</u>	25.30	June 30
	FSE-with beer and wine <u>And take-out</u>	25.30	June 30
	FSE-Class A lounge	165.00	June 30
	Renewal	82.50	June 30
	FSE-State liquor License Class IA: FSE Temporary (bona Fide nonprofit organi- zation) with any Spirituous, vinous, or malt license and <u>special entertainment</u>	27.50	Per2-day period
Ch. 4, Art. IV	Gaming: Beano Games of chance (application fee pursuant <u>to section 1506 only</u>)	27.50	June 30
Ch. 4, Art. III	Music, dancing and special Special entertainment: Entertainment with <u>Dancing</u>	27.50	June 30
	Entertainment <u>Without dancing</u>	27.50	June 30
	<u>Single dance</u>	11.00	Per dance

Sec. 15-12.1. Waiver of fees.

The city council may, in its discretion, waive or reduce any fee required of any nonprofit organization where the council determines that the purpose of the activity or the funds to be raised by the activity are of direct benefit to the citizens of the city.

(Ord. No. 527-82, 5-3-82)

Editor's note—Ord. No. 527-82, adopted May 3, 1982, added a new § 901.12A to the 1968 Code, which provisions, at the discretion of the editor, have been codified as § 15-12.1 of the Code.

Sec. 15-13. Supplementation of applications.

Whenever a license is in effect, the licensee shall be responsible for notifying the clerk in writing of any material change in facts set forth in the application for any license held from the city within seven (7) days thereafter. Failure to comply with this requirement shall be a violation of this chapter.

(Code 1968, § 901.13; Ord. No. 231-80, 12-22-80)

Sec. 15-14. Violations.

In addition to any action which may be taken by the clerk or the city council with respect to the suspension or revocation of a license, violation of this chapter, or of any licensing provisions of the city governed by this chapter, or of any rule made pursuant thereto shall be a civil violation subject to the penalties of section 1-15.

(Code 1968, § 901.14; Ord. No. 231-80, 12-22-80)