

**Chapter 5 BUSINESSES\***

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**\*State law reference(s)**--Power of the town to regulate and license businesses, 30 M.R.S.A., § 2151(5).

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**ARTICLE 1. SOLICITORS**

**Sec. 5-1. House to house sales; permit required.**

- (a) No person shall solicit funds from any person by selling goods or merchandise of any description by house to house canvas or on the streets of the town without a permit.
- (b) The chief of police shall issue written permits upon application.
- (c) Any person in violation of this section shall be fined not less than five dollars (\$5.00) nor more than twenty dollars (\$20.00).

(Town Warrant, Book 10, Art 96, Page 37, 3-11-58)

**State law reference(s)**--Home solicitation sales generally, 9-A M.R.S.A., § 3.501 et seq.

**ARTICLE 2. JUNKYARDS AND AUTOMOBILE GRAVEYARDS\***

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\***State law reference(s)**--Junkyards as nuisances, 17 M.R.S.A., § 2802.  
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**Sec. 5-2. Rules and regulations.**

The rules and regulations contained in this article shall apply to the conduct on the licensed premises of a junkyard or automobile graveyard.

**State law reference(s)**--Regulation, 30 M.R.S.A., § 2151; auto junkyards, 30 M.R.S.A., §§ 2454, 2459.

**Sec. 5-3. Hours of operation restricted.**

The business of junkyard and/or automobile graveyard shall be transacted between the hours of 7:00 a.m. and 6:00 p.m. on every week day. No operation is permitted on Sunday.

(Ord. No. 1, 9-22-69)

**Sec. 5-4. Noise prohibited.**

No excessive noises unnecessary to the conduct of the business shall be permitted.

(Ord. No. 1, 9-22-69)

**State law reference(s)**--Nuisances, see 17 M.R.S.A., § 2802; 30 M.R.S.A., § 2457.

**Sec. 5-5. Obstruction of traffic.**

No highway or sidewalk adjoining the licensed premises shall be obstructed to the inconvenience of pedestrians and vehicular traffic.

(Ord. No. 1, 9-22-69)

**Sec. 5-6. Inflammable gasses or liquids.**

No inflammable gasses and liquids shall be left exposed or handled in such a manner as to create a danger of fire or explosion.

(Ord. No. 1, 9-22-69)

**Sec. 5-7. Offensive odors or smoke.**

No automobile tires or other substance causing offensive smells and emitting large volumes of black smoke shall be burned on the premises.

(Ord. No. 1, 9-22-69)

**Sec. 5-8. Junkyard fences; specifications.**

- (a) Fences shall be so located and of sufficient height to completely screen the junkyard from ordinary view from any highway within the prescribed distances. Although the minimum height of any fence is stated to be six (6) feet, it must be emphasized that height shall be sufficient to accomplish the complete screening from ordinary view.
- (b) All fences shall be well constructed and maintained. Only sound material, uniform in appearance and erected in a workmanlike manner, will be acceptable.

(Ord. No. 1, 9-22-69)

**State law reference(s)**--Rules and regulations pertaining to junkyards or graveyards, 30 M.R.S.A., §§ 2454--2458.

**Sec. 5-9. Screening materials.**

- (a) Screenings may be accomplished by natural or manmade objects, plantings, or properly constructed fences. Such material shall completely screen the junkyard from ordinary view from any portion of any highway within the prescribed distances throughout the entire calendar year. All screening shall be outside of the highway right-of-way limits.
- (b) Natural or manmade objects may mean:
  - (1) Hills, gullies, or embankments. Such manmade objects shall be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance;

- (2) Buildings or other installations; or
- (3) Combination of the above materials.

(Ord. No. 1, 9-22-69)

**Sec. 5-10. Penalty.**

Any person violating any provision of this article shall be subject to a fine of not more than one hundred dollars (\$100.00) for each offense.

(Ord. of 10-4-71)

**ARTICLE 3. EXEMPTED BUSINESSES**

**Sec. 5-11. Businesses permitted to remain open.**

Any business not included within the exemptions listed under state law, Section 3.201 of Title 17, Maine Revised Statutes Annotated, shall be permitted to remain open for business on the days set forth in such section.

**ARTICLE 4. SPECIAL AMUSEMENT\***  
**Division 1 Generally**

**Sec. 5-12. Title.**

This article shall be known and may be cited as the "Special Amusement Ordinance" of the Town of Winslow, Maine.

(Ord. No. 12-1978, Art. I, § 101, 8-14-78)

**Sec. 5-13. Purpose.**

The purpose of this article is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor as required by Section 702 of Title 28, Maine Revised Statutes Annotated.

(Ord. No. 12-1978, Art. I, § 102, 8-14-78)

**Sec. 5-14. Definitions.**

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

(2) *Licensee.* For purposes of this article, "licensee" shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such licensee.

(Ord. No. 12-1978, Art. I, § 103, 8-14-78)

### **Division 2 Permit**

#### **Sec. 5-15. Required.**

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

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

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

The fee for a special amusement permit shall be ten dollars (\$10.00).

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within fifteen (15) days of the date of the request was received, at which the testimony of the applicant and that of any other interested member of the public shall be taken.

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

A permit shall be valid only for the license year of the applicant's existing liquor license.

(Ord. No. 12-1978, Art. II, § 201, 8-14-78)

### **Sec. 5-16. Inspections.**

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

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises, to give any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

(Ord. No. 12-1978, Art. II, § 202, 8-14-78)

### **Sec. 5-17. Suspension or revocation of permit.**

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

(Ord. No. 12-1978, Art. II, § 203, 8-14-78)

### **Sec. 5-18. Rules and regulations.**

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

Such rules and regulations shall be additional to and consistent with all sections of this article.

(Ord. No. 12-1978, Art. II, § 204, 8-14-78)

**Sec. 5-19. Permit and appeal procedures.**

- (1) Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit which has been denied.
- (2) Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in Section 2411 of Title 30, Maine Revised Statutes Annotated. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation or suspension was not based, by a preponderance of the evidence, on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

(Ord. No. 12-1978, Art. II, § 205, 8-14-78)

**Sec. 5-20. Admission.**

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

(Ord. No. 12-1978, Art. II, § 206, 8-14-78)

**Sec. 5-21. Penalty.**

Whoever violates any of the provisions of this article shall be punished by a fine of not more than fifty dollars (\$50.00) for the first offense, and up to one hundred dollars (\$100.00) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Winslow.

(Ord. No. 12-1978, Art. III, § 301, 8-14-78; Ord. No. 17-1978, 12-11-78)

**ARTICLE 5. ITINERANT VENDORS**

**Sec. 5-22. Permit required.**

It shall be unlawful for an itinerant vendor, as herein defined, to engage in business within the Town of Winslow, without first obtaining a permit in compliance with the provisions of this article.

(Ord. No. 2-1985, 1-13-86)

**Sec. 5-23. Definitions.**

*Itinerant vendor* is defined as any person who engages in a temporary business of selling or

delivering goods, wares, foods, foodstuffs, or merchandise within the Town of Winslow from either a public or private place, other than at his permanent place of business or at his place of legal voting residence.

- a. Temporary itinerant vendor shall apply to CEO for Use Permit. Such permit shall be valid from 8 to 60 days and may not be renewed in any one calendar year. Permit fee shall be \$50.00.

NOTE: 1 to 7 days requests shall apply to the Police Department for "Temporary Itinerant Vendor Permit" which cannot be renewed for 1 calendar year. The permit fee shall be \$25.00

- b. Seasonal itinerant vendor shall apply to the Planning Board for a permit and meet all applicable requirements of the Zoning Ordinance's Conditional Use and Site Review at Section 14-28, et al. Such permit shall be valid for 3 to 6 months continuous use and cannot be renewed for one calendar year. The permit fee shall be \$50.00 per month of use.
- c. Temporary or Itinerant Seasonal Vendors, which prepare and /or serve food shall provide for waste and sanitation facilities for such business and be subject to inspection by the Town Code Enforcement Officer and/or Maine State Health Officials. Unsanitary or unsafe conditions may result in revocation of permit to operate as well as civil penalties and other applicable remedies and costs including but not limited to Section 5-31.
- D. Permits for all Temporary Itinerant Vendors and Seasonal Itinerant Vendors shall only be issued if the applicant is in compliance with all applicable requirements of the zoning district in which he or she shall be located along with all other applicable State and Town of Winslow applicable laws, ordinances, rules, and regulations, and the location of any such itinerant vendor shall not be a detriment to vehicle or pedestrian traffic, vehicle traffic flow, vehicle traffic egress and ingress to the itinerant vendor's location site, and there is adequate parking and safe sight-distance of oncoming vehicle traffic approaching the itinerant vendor's location site at the customary speed in that area.

*Permanent place of business* shall mean a place of business which is not a temporary business.

*Private place* shall mean all premises which are assessed as real property by the Town of Winslow and not owned by any public entity, other than a permanent place of business or a place of legal voting residence. If a private place is used, written authorization from owner must be provided.

*Public place* shall mean all public ways laid out under authority of statute and dedicated to public use, or other places to which the public at large or a substantial group has access.

*Temporary business* shall mean a place of business not open to the public at least five (5) days a week for not less than six (6) hours daily.

(Ord. No. 2-1985, 1-13-86; Ord. No. 5-2005, 7-11-05)

**Sec. 5-24. Nonprofit organizations and educational institutions exempt.**

Nonprofit organizations and educational institutions shall be exempt from this article.

(Ord. No. 2-1985, 1-13-86)

**Sec. 5-25. Permit application form.**

Temporary Itinerant vendors must complete the application form furnished by the chief of police clearly stating the time, place, manner and purpose for which the permit is desired.

(Ord. No. 2-1985, 1-13-86)

**Sec. 5-26. Time permit valid; non-transferability.**

Itinerant vendors permit shall be valid for a period not to exceed three (3) consecutive days, between the hours of 9:00 a.m. and 8:00 p.m. Monday through Sunday, and shall not be transferable. An exception to this section shall be farmers who sell their own grown products and such exception shall apply from June 1 to October 1 each year.

(Ord. No. 2-1985, 1-13-86; Ord. No. 3-1993, 7-12-93)

**Sec. 5-27. Prohibited locations.**

Itinerant vendors permit shall not be issued to applicant at any location where prohibited by the Winslow Zoning Ordinance.

(Ord. No. 2-1985, 1-13-86)

**Sec. 5-28. Permit fee.**

Fee for each permit shall be stated in Section 5-23, nonrefundable, and payable to the Town of Winslow. The fee for farmers who sell their own grown products from June 1 to October 1 each year shall be twenty-five dollars (\$25.00).

(Ord. No. 2-1985, 1-13-86; Ord. No. 3-1993, 7-12-93; Ord. No. 5-05, 7-11-05)

**Sec. 5-29. Proof of insurance to be provided.**

Itinerant vendors shall provide certificates of bodily injury liability and property damage insurance.

(Ord. No. 2-1985, 1-13-86)

**Sec. 5-30. Vendors to hold town harmless.**

Itinerant vendors shall indemnify and save harmless the Town of Winslow, its authorized agents, officials and employees from and against any and all actions, causes of actions, liabilities, claims,

demands, damages or losses including any actions for contribution or indemnity, and including all reasonable attorneys fees, resulting from any civil or criminal action arising directly or indirectly out of any act or omission of itinerant vendors, their employees, or business patrons.

(Ord. No. 2-1985, 1-13-86)

**Sec. 5-31. Violation; penalty.**

Any itinerant vendor who violates any provision of this article shall be guilty of a civil violation and subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), plus the Town of Winslow's attorney's fees for the prosecution of any such violation. Each day of any violation of this article shall be a separate offense. Nothing in this article shall be construed to prohibit other or further civil or criminal action, including the Town of Winslow's attorney's fees, against any itinerant vendor.

(Ord. No. 2-1985, 1-13-86)

**ARTICLE 6. INNKEEPERS AND LODGING HOUSES\***

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**State law reference(s)**--Authorization for municipal officers to serve as licensing board for the issuance of innkeeper and tavern keeper licenses, 30-A M.R.S.A., § 3812.

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**Sec. 5-32. Permit fee.**

Every person licensed as an innkeeper or tavern keeper shall pay to the treasurer for the use of the municipality a fee of twenty-five dollars (\$25.00).

(Ord. No. 5-1993, 9-13-93; Ord. No. 5-2001, 8-27-01)

**Sec. 5-33. Penalty.**

Any innkeeper or tavern keeper who is in violation of this article will be subject to a general penalty as outlined in section 1-7 of this Code.

**ARTICLE 7. PERMIT REQUIRED FOR SALE OF CONSUMER FIREWORKS.**

**Sec. 5-34. Permit Required.**

A Municipal Permit is required for the sale of Consumer Fireworks. The Code Enforcement Officer is authorized to issue a permit if the following conditions are met:

1. The applicant is 21 years or older and applies on a state approved form.
2. The applicant possesses the necessary State and Federal Permits.
3. Storage and Sale
  - a. Consumer Fireworks may be stored and sold only in a permanent, fixed, stand-alone building dedicated solely to the storage and sale of Consumer Fireworks.
  - b. The building may not be less than 60' from another permanent building and

may not be less than 300' from a structure in which gasoline, propane or other flammable material is sold or dispensed.

- c. Cigarettes, tobacco products or lighters or other flame producing devices may not be permitted in the building.
  - d. A person under 21 years of age may not be admitted into the building unless accompanied by a parent or guardian.
  - e. Notwithstanding subsection d above, a person of at least 18 years of age may handle and sell Consumer Fireworks if the person is under the direct supervision of a person 21 years of age or older.
  - f. The building shall be equipped throughout with an automatic fire suppression system in accordance with NFPA 13-D.
  - g. The building must comply with the IBC Building Codes as amended.
  - h. No outside storage will be allowed.
4. The location is permitted under the Winslow Zoning Ordinance.

**Sec. 5-35. Permit Fees; Inspections.**

1. There will be a fee of \$250.00 dollars for the initial one year permit and \$200.00 dollars for annual renewal permits.
2. The Fire Department and Code Enforcement Officer will perform annual inspections to ensure compliance.

**Sec. 5-36. Violations.**

In addition to the enforcement provisions of 8 M.R.S.A. Section 223-A(9), a fine of \$500.00 for an initial violation, and \$1,000.00 for subsequent violations of this Ordinance will be imposed, none of which may be suspended. The town will also be awarded its reasonable attorney fees for prosecution of any violation.

(Ord. No. 5-1993, 9-13-93; Ord. No. 5-2001, 8-27-01; Ord. No. 2-2012, 3-12-12)