

Art. \_\_\_\_ Shall an ordinance entitled "Town of Limerick Business Licensing Ordinance" be enacted?

**TOWN OF LIMERICK  
BUSINESS LICENSING ORDINANCE**

**Article I-General Provisions**

**Section 101. Purpose.**

The purpose of this Ordinance is to establish the requirements for business licenses in order to protect the public health, safety and welfare.

**Section 102. Definitions.**

All words, phrases and terms shall have their customary and usual meanings, except that the following words, phrases and terms shall have the meaning indicated:

*Automobile graveyard:* This term shall have the same definition as set forth in 30-A M.R.S.A. § 3752(1), as amended.

*Automobile recycling business:* This term shall have the same definition as set forth in 30-A M.R.S.A. § 3752(1-A), as amended.

*Game of chance:* This term shall have the same definition as set forth in 17 M.R.S.A. § 1831(5), as amended.

*Junkyard:* This term shall have the same definition as set forth in 30-A M.R.S.A. § 3752(4), as amended.

*Person:* This term shall mean an individual, a sole proprietorship, a corporation, limited liability company, or any other entity that is engaged in the sale or purchase of goods and services in the Town of Limerick.

**Section 103. License required.**

No person shall carry on any business or other activity subject to a license or permit requirement under this Ordinance or any other applicable law without such a license or permit. A copy of each license or permit shall be kept on the licensed premises for inspection. **Refer to Article II Specific Licenses.**

**Section 104. Payment of taxes and fines.**

No new or renewal license or permit shall be issued to any person or property for which any real or personal property taxes, fines, fees or interest are owed to the Town.

**Section 105. License fees.**

The fees for licenses and permits shall be established by order of the Select Board and shall bear a reasonable relationship to the costs incurred by the Town in the administration and enforcement of this Ordinance.

**Section 106. Filing of application; fees.**

- a. All fees and charges for licenses and permits shall be paid to the Town at the time of the filing of the application with the Town. All applications and fees shall be filed with the Code Enforcement Office.
- b. All fees are nonrefundable, regardless of whether a license or permit is issued.
- c. In addition to the required annual fee established by order of the Select Board, the applicant for a license must pay for the Town's cost of notice for public hearings and background checks if required by State law or this Ordinance, as may be necessary for the issuance of the specific license.

**Section 107. Duration of license.**

Unless otherwise stated in this Ordinance or established by State law, all licenses and shall expire on December 31 of each year. An application for license or permit renewal cannot be filed after the expiration date and an application for a new license or permit will be required.

**Section 108. Review of license application by the Select Board, if applicable.**

The Select Board shall hold a public hearing on any new or renewal liquor license application, unless a renewal application is for a business that has held a license for the past five (5) years and no complaint has been filed against the applicant during that time. In that case, the applicant may request a waiver of the public hearing and, if granted, the Select Board shall consider the application without a public hearing. The Select Board shall hold a public hearing on any application for the following licenses:

- Temporary Exhibitions.
- Automobile graveyards.

Junkyards.  
Automobile recycling businesses.

Unless otherwise specified herein, all other license applications shall be reviewed and either approved, approved with conditions, or denied, by the Code Enforcement Officer.

**Section 109. Application requirements.**

A. All applications for licenses or permits under this Ordinance shall be filed with, and in a form satisfactory to Code Enforcement Officer together with such supporting documents and information, as the Code Enforcement Officer may prescribe.

B. Such application may include, but is not limited to, the following:

- (1) Name, address, and contact information, including phone number and email address, of the applicant, all other persons having a legal interest in the facility and property, and the individual(s) designated by the applicant to manage operation of the facility, if any.
- (2) Location within the premises for which a license or permit is sought, identified by both Town Tax Map and lot number and street address.
- (3) Dimensions and acreage of the property.
- (4) Copy of a signed, approved site plan, and supporting documents, if required under this ordinance.
- (5) Description of the use and facility and how the location and improvements associated with the proposed facility comply with the requirements of this ordinance, the Zoning Ordinance and any other applicable ordinances.
- (6) The location of any alarms and shut-offs.
- (7) Identification of any other approvals required by Town, State, or federal agencies, and a statement about whether those approvals have been received and are current.
- (8) Other information specified in this Ordinance or any other applicable regulation, codes, or law.
- (9) Two (2) copies of the license or permit application and all supporting documentation and one (1) digital copy, in the form of a USB, CD, email, Drop Box, or Google Drive link, containing pdf files for the application and each piece of supporting documentation.

**Section 110. Administration.**

A. Code enforcement review. A license or permit application shall be filed with and reviewed by the Code Enforcement Officer to determine if it is complete. If the application is not determined to be complete, the applicant shall be notified and no further action shall be taken on the application until the additional information is provided. All missing information shall be submitted to the Code Enforcement Officer within sixty (60) days of request. Otherwise, the application will be deemed abandoned and the application fee forfeited. Once the application has been deemed complete, it shall either be reviewed by the Code Enforcement Officer for compliance with this Ordinance or else forwarded to the Select Board for review, as further specified herein.

B. Land use approvals. The application must demonstrate compliance with all applicable land use ordinances and must have all required land use approvals and permits.

C. Select Board review. Provided it is the licensing authority, the Select Board may impose conditions on the approval of any license application it deems necessary to ensure compliance with the provisions of this Ordinance or any other provision of law. Such conditions may include, but are not limited to, documentation of the following requirements:

- (1) All landscaping, screening, reclamation, and/or other requirements approved and/or imposed by the Planning Board have been installed, completed, and approved by appropriate Town staff.
- (2) All requirements imposed by any other regulatory bodies having jurisdiction have been installed, completed, and approved.
- (3) All other measures required to improve the operations of the facility or minimize its impacts on the surrounding neighborhood have been constructed or implemented.

**Section 111. Records; disposition of fees.**

A record of the issuance of such license or permit, with the name of the licensee or permittee and the fee paid, shall be kept by the Code Enforcement Office. The fees collected by the Code Enforcement Office for all licenses provided herein shall be turned over to the Town Treasurer, and shall be credited to the Licenses and Fees Account.

**Section 112. Investigation of applicant and review of application.**

Upon receipt of an application for any license or permit, other than a renewal application substantially identical to the original application, the Code Enforcement Officer shall

inquire of other Town departments, including the Inspection Team, as appropriate, for comments as to whether a license may be granted consistent with the provisions of the laws and codes enforced by such department. In all appropriate cases, the Code Enforcement Officer shall verify that the premises to be used for the proposed facility comply with the Building Code, Electrical Code, Plumbing Code, and Zoning Ordinance, including development permit approval and if applicable, Junkyard Screening Law; the Fire Chief shall cause inspection to be made for the purpose of determining if codes, State law, or State regulation concerning fire and safety have been complied with; the Constable shall cause an investigation to be made of the principal officers or person to be licensed and if the license is not issuable to any class of persons, firms, or corporations; the Tax Collector shall verify that taxes have been paid or payment arrangements made. All persons shall report to the Code Enforcement in writing, and copies of any such report shall be a public record.

### **Section 113. Inspections.**

As a condition of granting a license or permit, unless otherwise specified, an inspection may be required. Submission of a license or permit application shall constitute permission for entry and inspection, upon reasonable advance notice. The Inspection Team, which consists of a representative of the Fire Department and the Code Enforcement Officer and/or their designee, may inspect every facility to be licensed or permitted under this Ordinance for the purpose of determining if the applicant and premises is in compliance with all applicable laws, codes, rules, regulations, and development permits. Inspections shall take place at a reasonable time and prior to a determination on the license or permit application. Businesses with no regularly scheduled hours shall be given twenty-four (24) hours' notice for an annual inspection.

### **Section 114. Standards for license denial, suspension or revocation.**

In addition to any other provision of this Ordinance authorizing such action, a license or permit may be denied, suspended, or revoked upon determination of one (1) or more of the following regarding the applicant, application, or premises:

- A. Failure to fully complete the application forms; knowingly making an incorrect statement of a material nature on such form; 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.
- B. Failure to comply with laws, code, development permits, rules, or regulations.
- C. Failure to license and operate a safe and proper place of business compliant with all relevant fire, health, and safety codes.
- D. The proposed or existing operations have or will likely be a nuisance to owners of neighboring property or to the public and have been or will be detrimental in any way to the health, safety and welfare of the public.

E. The applicant, licensee or permittee, or employee of the licensee or permittee has a disqualifying criminal conviction, based upon the following:

(1) For a period of one year from the date of the discharge of the sentence for the most recent conviction for a Class D or E crime, or an equivalent offense in any other jurisdiction, that falls into any one of the following categories: theft, robbery, burglary, assault, sex crimes, drugs, prostitution, weapons.

(2) For a period of three years from the date of the discharge of the sentence for the most recent conviction for a Class C crime, or an equivalent offense in any other jurisdiction.

(3) For a period of five years from the date of the discharge of the sentence for the most recent conviction for a Class B crime, or an equivalent offense in any other jurisdiction.

(4) For a period of 10 years from the date of the discharge of the sentence for the most recent conviction for a Class A crime, or an equivalent offense in any other jurisdiction or if either of the following has occurred:

(a) The applicant has received more than two criminal convictions for Class B, C or D crimes, or any combination of such crimes within the preceding ten-year period; or

(b) The applicant has utilized a weapon of any type in the commission of a crime.

(5) Where an applicant for a license or permit or a licensee or permittee has more than one disqualifying criminal conviction within the previous 10 years, the applicant shall be disqualified for the longest applicable period of time. If an applicant receives a subsequent disqualifying criminal conviction during a period of disqualification for another offense, the disqualification period for the subsequent offense shall run from the date of the discharge of the sentence for the subsequent conviction. If the disqualification period for the subsequent offense extends beyond the initial disqualification period, then the applicant shall remain disqualified for such additional time period.

(6) The periods of disqualification set forth in Subsection C(1) above, other than Subsection C(1)(e), may be reduced by six months if the applicant can show that after the conviction they did at least one of the following:

(a) Successfully completed a drug or alcohol rehabilitation program, if the disqualifying criminal conviction involved the use of alcohol or drugs, as evidenced by a certificate of completion of the program or a letter from an official of the program;

(b) Successfully completed a domestic violence therapy program or treatment if the disqualifying criminal conviction involved domestic violence, as evidenced by a certificate of completion of the program, a letter from an official of the program or a letter from a licensed counselor or therapist; or

(c) Made restitution for the crime committed, as evidenced by appropriate court documentation or probation records.

F. The applicant's operation of the business has been the source of client complaints.

#### **Section 115. Violations and penalties.**

A. Any person who operates a business without a license or permit required by this Ordinance shall be in violation and subject to the penalties set forth in subsection B(3) of this Section.

B. Any licensee or permittee who violates any provision of this chapter or the terms of a license may be penalized in the following manner:

(1) Temporary suspension. The Code Enforcement Officer or Constable, after notice, is authorized to temporarily suspend any license, after notice to the licensee. A temporary suspension will be limited to any situation involving harm to the public arising out of the operation of the business. A licensee is entitled to request a hearing

(2) Revocation. The Select Board may, after notice and hearing, revoke a license based upon the licensee's failure to comply with the requirements of this Ordinance.

(3) The Select Board may initiate a civil enforcement action for any violation of this Ordinance. In such an action the Town may seek penalties in an amount between \$100.00 and \$2,500.00 per violation. Each day that a violation exists shall be considered a separate violation. The Town may also seek injunctive relief to address the violation. In the event that the Town is the prevailing party in an enforcement action, it shall be entitled to an award of its reasonable attorney's fees and costs of enforcement. Violations of requirements for junkyards, automobile

graveyards or automobile recycling businesses shall be subject to the enforcement provisions of 30-A M.R.S.A. §§ 3758-A and 4452, as amended.

**Section 116. Appeals.**

Decisions of the Code Enforcement Officer under this Ordinance are appealable to the Select Board within thirty (30) days of the date of their decision. The Select Board shall hear such appeals on a *de novo* basis. Appeals from decisions of the Select Board shall be appealable to the York County Superior Court under the provisions of Rule 80B of the Maine Rules of Civil Procedure.

**Section 117. Severability.**

If any clause, sentence, paragraph, section, article, or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the Ordinance but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**ARTICLE II-Specific License Requirements**

**Section 201. Liquor licenses.**

A. Applications for a liquor license shall be made on the forms provided by the Maine Bureau of Liquor Enforcement. The applicant shall submit all required information and the fee established by order of the Select Board, in addition to all other required fees under this Ordinance. The applicant must demonstrate compliance with the eligibility requirements established by 28-A M.R.S.A. § 601, as amended. The Select Board shall review any new liquor license under the provisions of 28 M.R.S.A. § 653, as amended, and shall issue its decision within sixty (60) days of the date of submission of the license application. If the Select Board does not act on the application within that time, the license will be deemed approved and shall be ready for action by the Bureau of Liquor Enforcement.

B. The Select Board shall take action on an existing on-premises license that has been extended pending renewal within 120 days of the filing of the application.

C. If the Select Board denies an application for a new or renewal license, it shall issue written findings in support of its decision and provide a copy to the applicant. A license may be denied for any of the reasons set forth in 28-A M.R.S.A. § 653, as amended.



D. Any applicant who is aggrieved by the decision of the Select Board may appeal that decision to the Bureau of Liquor Enforcement within fifteen (15) days of the receipt of the written decision of the Select Board.

**Section 202. Off-premises catering license.**

The Code Enforcement Officer shall have the authority to review any application an off-premises catering license for sale of liquor, as established by 28-A M.R.S.A. § 1052, as amended, and to notify the Bureau of Liquor Enforcement whether the request has been approved.

**Section 203. Games of chance license.**

The Code Enforcement Officer shall be authorized to review any application for a license for a game of chance under 17 M.R.S.A. § 1832, as amended, and to notify the Maine Gambling Control Unit whether approval has been granted.

**Section 204. Beano and bingo license.**

The Code Enforcement Officer shall be authorized to review any application for a beano and bingo license under 17 M.R.S.A. § 311, as amended, and to recommend to the Select Board whether consent to State registration for the proposed operation should be granted. Once received, the Select Board shall choose whether or not to consent to such a license, as permitted by 17 M.R.S.A. § 313, as amended.

**Section 205. Places of assembly and temporary exhibitions.**

A. No person may operate a place of assembly for the purpose of amusement or entertainment including concert halls, indoor and outdoor exhibition places, playhouses, movie theaters, indoor skating rinks, bowling alleys, and billiard rooms on a regular scheduled basis until such person first obtains a license for such purpose from the Code Enforcement Officer. Licenses under this article shall not be issued unless the Code Enforcement Officer determines that all applicable requirements of this Ordinance have been met.

B. No person may operate a traveling amusement show or temporary exhibition or event, pageant, theatrical performance, whether indoors or outdoors, including a music festival or exhibition for the purpose of amusement or entertainment, including but not limited to circuses and carnivals until such person first obtains a license for such purpose from the Select Board. Licenses under this article shall not be issued unless the Code Enforcement Officer determines that the applicant's proposed operation meets all applicable requirements and that any emergency services, including but not limited to ambulance, fire, or police services necessary for the event are arranged and paid for. Any person carrying out such activity without a license is in violation of these provisions. Failure to comply with any of these requirements shall be deemed a violation of this article and is adequate grounds for the denial, revocation, or suspension of a license.

C. Municipal facilities, Town-sponsored events, and farmers' markets are exempt from the fee.

D. The applicant shall file with its application for a temporary exhibition license adequate proof of permission from the landowner to use the property for the stated purpose and shall furnish a plan showing the size of the area to be used, with designated locations for drinking, toilet and washing facilities, waste containers and disposal plan, first aid facilities and off-street parking.

**Section 206. Sport shooting ranges.**

No person may operate a sport shooting range, open to the public, used principally or primarily for archery, skeet and/or trap shooting, other shooting sports, shooting rifles, shotguns and pistols or other projectiles, such as paint balls or laser tag, until such person first obtains a license for such purpose from the Code Enforcement Officer. Licenses under this article shall not be issued unless the Code Enforcement Officer determines that the applicant's proposed operation meets all applicable requirements of this Ordinance. The requirement for licensure hereunder shall be interpreted in a manner consistent with 30-A M.R.S.A § 3011, as amended, and may not operate to limit or eliminate shooting activities that have occurred on a regular basis at a particular property before the enactment of this Ordinance, so long as the operator of the sport shooting range provides written documentation to the Code Enforcement Officer that the sport shooting range conforms to generally accepted gun safety and shooting range operation practices and is constructed in a manner not reasonable expected to allow a projectile to cross the boundary of the range.

**Section 207. Tattoo artists.**

No person shall operate a tattoo artist establishment until such person first obtains a license for such purpose from the Town. Licenses under this article shall not be issued unless the Code Enforcement Officer determines that the applicant's operation meets all applicable requirements of this Ordinance and that the applicant has a valid State license in accordance with the requirements of 32 M.R.S.A. Sections 4201-4205, as amended. A tattoo artist facility shall be operated in accordance with all applicable requirements of State law and regulations.

**Section 208. Automobile graveyards, junkyard and automobile recycling facilities.**

A. No person shall operate an automobile graveyard, junkyard or automobile recycling facility without first receiving a permit from the Select Board. The Select Board shall hold a public hearing for any new license under this section and may hold public hearings on renewal permits.

B. The Town shall post a notice of the public hearing at least seven (7) days and not more than fourteen (14) days in advance of the public hearing in at least two (2) public places in the Town. In addition, it shall publish a notice in a newspaper having general circulation in the Town. The applicant shall be required to mail a notice of any public hearing held under this Ordinance to all abutting property owners and to provide proof of mailing of the notice to the Town in advance of the public hearing. The Town shall give written or electronic notice of the application for any new automobile graveyard or automobile recycling business to the automobile dealer licensing section of the Maine Department of the Secretary of State, Bureau of Motor Vehicles by mailing a copy of the application at least seven (7) and not more than thirty (30) days before the hearing. The Town shall give written notice of an application under this section to any public water supplier if the proposed business is located within the supplier's source water area. This notice shall be mailed at least seven (7) and not more than fourteen (14) days before the hearing.

C. Any junkyard, automobile graveyard or automobile recycling business must comply with all applicable requirements of 30-A M.R.S.A. Sections 3754-A and 3755-A, as amended. A license under this Ordinance may not be issued unless the proposed business complies with all applicable performance standards contained therein

#### **Section 209. Pawnbroker.**

A. No person shall operate as a pawnbroker without first receiving a permit from the Select Board. The Select Board shall hold a public hearing for any new license under this section and may hold public hearings on renewal permits. The purpose of such public hearing shall be to determine whether the applicant has the good moral character necessary to operate a pawnbroker's business.

B. Pawnbrokers must comply with all requirements of 30-A M.R.S.A. §§ 3961-3964, as amended.