

Chapter 11 Licenses and Permits

General Provisions

Vendors

General Business

Taxicabs

Itinerant Photographers

Salvage Yards

Entertainment

Liquor

Circuses, Carnivals and Shows

Parades and Open Air Meetings

Article I. General Provisions

Section 11-1 Definitions

The word license or licensed as used in this Chapter shall mean a license or permit granted by the Town Clerk or Town Manager.

The word applicant shall mean any person, partnership, business or corporation who causes an application to be presented under Section 11-9 or who seeks renewal under Section 11-11.

Section 11-2 Duration of Licenses, License Period

A license, unless otherwise provided, shall continue in force until the last day of December next, following the date of issuance unless sooner revoked, as hereinafter provided in this Article.

Section 11-3 Revocation

A license may be revoked at any time by the Selectboard, whereupon, unless such revocation is for cause, there shall be refunded to the licensee such portion of the fee received therefor as is proportionate to the unexpired term thereof.

Section 11-4 Causes for Revocation

A license may be suspended or revoked by the Selectboard after notice and hearing for any of the following causes:

- a. Fraud, misrepresentation or false statement contained in any application for permit or license.
- b. Fraud, misrepresentation or false statement in the conduct of any business or activity authorized by such license or permit.
- c. Conviction of the licensees for any felony or misdemeanor involving moral turpitude.
- d. Any violation of this chapter.

- e. Any violation of the laws of the United States, the State of Vermont or any ordinance heretofore or hereafter adopted by the Town of Brattleboro in full force or effect.
- f. Conducting the licensed business, trade, calling, profession or occupation, through the licensee himself or any of his agents, servants or employees, in any unlawful, disorderly or improper manner, or in such manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.
- g. The conduct of any licensed business or activity by any person who is of unfit character.
- h. Violating or abusing the purpose of which a license has been issued to the detriment of the public, or the use of a license for a purpose foreign to that for which it was issued.

Section 11-5 Notice of Hearing

A license issued by the Town of Brattleboro shall not be revoked, cancelled or suspended until a hearing thereon shall have been held by the Selectboard. Written notice of the time and place of the hearing shall be served upon the licensee at least fourteen days prior to the date set for the hearing. The notice shall also contain a brief statement of the reasons for revoking, cancelling or suspending the license.

Section 11-6 Service of Notice

Notice of hearing as set forth in Section 11-5 may be given either by personal delivery to the person to be notified, or may be deposited in the United States Post Office in a sealed envelope, postage prepaid, addressed to the person to be notified at the business address appearing on the license.

Section 11-7 Hearing Procedure

At the hearing before the Selectboard, the person aggrieved by the proposed suspension or revocation of the license issued by the Town of Brattleboro shall have an opportunity to answer and may thereafter be heard, and upon due consideration and deliberation by the Selectboard, the complaint substantiated, it may revoke, cancel or suspend the license held by the licensee.

Section 11-8 Reinstatement of Revoked Licenses

If any license shall have been revoked as provided in Section 11-7, neither the holder thereof nor any person acting on their behalf, directly or indirectly, shall be entitled to another license to carry on the same business within the Town unless the application for such license shall be approved by the Selectboard.

Section 11-9 Application for License

Before a license shall be granted, a written application shall be presented to the Town Clerk signed by the applicant. On such application, the applicant shall state his place of residence, the particular kind of license desired and that he will observe the condition of such license and all applicable laws. Such license shall not be sold, assigned or

transferred without consent of the Selectboard. In consideration of such application, the Selectboard may require the applicant to provide such evidence in support thereof as the Selectboard deems necessary.

Section 11-10 Issuance of License

If the Selectboard shall be of the opinion that the applicant has complied with all conditions respecting such applications, it shall issue such license, subject to the provisions of Section 11-16. If the license is refused the Selectboard shall so inform the applicant and return the fee advanced.

Section 11-11 Renewal of License

A license, once issued by the Town Clerk or Town Manager in accordance with Section 11-10 of this Article, may be renewed subject to provisions of Section 11-18 of this chapter, by the Town Clerk upon application by the licensee, and payment of the license fee, provided that the license issuance has not been contested, and that all requirements of state and local law have been met.

Section 11-12 Contest of License

The renewal of any license under this chapter may be contested by any person for just cause through a complaint in writing signed by the complainant and addressed to the issuing office, stating with particularity the nature of the complaint and the reasons for contesting the renewal of the license. The Town Clerk, upon receipt of said complaint, shall forward a certified copy to the Selectboard, which shall at the next regular meeting following receipt of said complaint, consider its merits and, if found justified, shall order a hearing before the Selectboard in accordance with the procedures outlined in Sections 11-5, 11-6, and 11-7.

Section 11-13 Display of License

The Town Clerk, at the expense of the Town, shall, upon issuing any license, furnish the licensee a suitable card bearing the license, and the same shall be conspicuously placed in the licensed premises, subject to the approval of the Chief of Police.

Section 11-14 Delinquent License Fees: Penalty

Licenses/Permits issued up to 15 days late will be charged an additional 25% of the fee. After 15 days the late fee will increase to an additional 50%.

Section 11-15 Failure to Obtain a License

Failure to obtain a license shall result in a fine of two (2) times the original license fee. The waiver fee shall be one and one-half times the original license fee. Failure to obtain a license is defined as being thirty days or more late in payment of the original fee.

Section 11-16 Licensee's Duties and Obligations

All licenses shall be subject to the conditions that the licensee shall be liable to any person who shall receive actionable injury through the exercise thereof, and shall also be liable to indemnify and save harmless the Town in all things relating to the exercise of such license; and such conditions shall be obligatory upon licensees without other notice

than that to be implied from this section. All licenses shall be further subject to the condition that the licensee shall keep his place of business safe at all times for the use of the public invited thereon, and such condition shall be obligatory upon licensees without other notice than implied from this section.

Section 11-17 Violations

It shall be unlawful for any person to violate the provisions of this chapter, and upon conviction thereof shall be subject to general penalty provision in Section 11-3.

Section 11-18 Property Taxes Delinquent

No license shall be issued under Section 11-10 or renewed under Section 11-11 to any applicant who is delinquent in the payment of any property taxes, water, sewer, or related fees, costs or penalties applicable by law and due the Town of Brattleboro as of the date of application and/or renewal.

Notwithstanding the provisions above, a license may be issued pursuant to Section 11-10 or renewed pursuant to Section 11-11 upon confirmation by the appropriate administrative office that all such property tax delinquencies, costs, fees and penalties have been paid, except where acceptable arrangements have been made, and are being maintained with the Town Treasurer.

Section 11-19 – 11-20 Reserved

Article II VENDORS

Section 11- 21 License Required

It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise within the Town of Brattleboro without first obtaining a vendor's license therefor as provided in this Chapter.

Permitting of Food Carts and Mobile Food Units is under the jurisdiction of the Brattleboro Zoning Ordinances. Permits for those services are issued by the Planning Department.

Section 11-22 Definitions

Vendor shall mean any person, including an employee or agent of another, who sells or offers to sell food, beverages, personal services, goods or merchandise on any public street or sidewalk from a stand, motor vehicle or from his/her person, or one who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, personal services, goods or merchandise.

Stand shall mean any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered as a motor vehicle, used for the display, storage, promotion or transportation of articles or personal services, offered for sale by a vendor.

Public Street or Sidewalk shall include all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, public parking spaces and any other public way.

Section 11-23 Application

The application for a vendor's license shall be submitted to the Town Manager for approval by the Town Manager on forms provided therefor and contain all information relevant and necessary to determine whether a vendor's license may be issued, including but not limited to:

- a. Proof of the identity and business address of the applicant.
- b. A brief description of the nature, character and quality of the food, beverages, personal services, goods or merchandise to be sold.
- c. If employed by another, the name and business address of the person, firm, association, organization, company or corporation.
- d. If a motor vehicle is to be used in the conduct of a vending business, a description of the vehicle together with the motor vehicle registration number and the license number, provided however that no vendor shall conduct business from any public parking space.
- e. A description of the proposed location(s) of the vending business and the length of time during which it is proposed that the business shall be conducted at each location.
- f. Proof of a valid and current state license for the type of business activity for which a license under this ordinance is sought.

- g. Acknowledgement that issuance and maintenance of a vendor's license by the vendor shall be subject to review by the Chief of Police and Health Officer.

Section 11- 24 Fees

An applicant for a license under Section 11-23 shall pay an annual license fee of \$100 per vendor.

Section 11-25 Licenses

The license issued to a vendor shall be carried with the vendor while he or she is engaged in the business of vending.

Section 11-26 Restrictions applicable to all Vendors

1. Stands. Vendor's stands shall not:
 - a. Exceed eight feet in length, three feet in width, or eight feet in height.
 - b. Impede pedestrian or vehicular travel, or access to the entrance of any adjacent building or driveway.
 - c. Occupy more than half of the available sidewalk width or four feet of such sidewalk, whichever is less.
 - d. Locate within five feet of a crosswalk, fire hydrant, fire escape, bus stop, loading zone, driveway, or entrance of any building.
 - e. Locate within fifty feet of any other vendor or business establishment offering for sale goods or merchandise of substantially the same type as that being offered for sale by the licensed vendor.
2. Hours of Operation. Vendors shall be allowed to engage in the business of vending only between 7:00am and 10:00pm, except that those vendors who conduct their business by going door-to-door shall be allowed to operate only between 9:00am and 5:00pm. All vending stands must be removed from public property during non-vending hours.
3. Handicapped Areas. No vendor shall conduct business within five feet of any handicapped parking space or access ramp.

Section 11-27 Suspension or Revocation of License

1. Any license issued under this Article may be suspended or revoked by the Selectboard after due notice to the licensee and hearing, for any of the following reasons:
 - a. Fraud or misrepresentation in the application for the license.
 - b. Fraud or misrepresentation in the course of conducting the business of vending.
 - c. Conducting the business of vending contrary to the conditions of the license.
 - d. Conducting the business of vending in such a manner as to create a public nuisance or breach of the peace, or constitute a danger to the public health, safety or welfare.
2. Upon suspension or revocation, the Town shall deliver written notice to the licensees stating the action taken and the reasons supporting such action. The

written notice shall be delivered to the licensee's place of business or mailed to the licensee's last known address.

Section 11-28 Appeals

Persons who are denied licenses or whose licenses have been suspended or revoked may appeal by filing a written notice of appeal to the Selectboard.

Section 11-29 Renewals

Application for renewal licenses issued under Section 11-11 shall be made to and received by the Town Manager between fifteen (15) and thirty (30) days prior to the expiration of such license. The Town -Manager shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this Chapter.

Section 11-30 Religious, Charitable, Educational and Service Organizations

Authorized representatives of religious, charitable, educational or service organizations desiring to solicit money, to sell products, or to distribute literature shall be exempt from the payment of any fee hereunder, but shall be required to submit in writing to the Town Manager the name and purpose of the cause for which such activity is sought, the name and address of the immediate director of such activity, and the period during which such activity is to be carried on in the Town. If the Town Clerk, after investigation, shall find that the organization is a bona fide charitable, religious, educational or service organization, the Town Manager shall issue, free of charge, a license to carry on such activity. Such license shall cover all persons engaged in the activity for which the license was issued. Organizations designated as religious or exempt under Section 501(c), 501(d), 501(e), 521, 527, or 528 of the Internal Revenue Code of 1986, or subsequent enactments, shall be exempted from the payment of the fee imposed under Section 11-24, provided that no license issued hereunder shall be of a duration in excess of fifteen (15) consecutive days. Organizations not found to be exempt as defined above shall be responsible for the full fee.

Section 11-31 Special Vendor License

In lieu of the license required under Section 11-25, the Town Manager may issue a thirty (30) day license to a person selling or offering for sale or soliciting orders for the sale of services, goods or merchandise from premises occupied temporarily as a tenant, lessee, guest or invitee. Such license shall be valid only between the dates specified thereon, and the person applying for such a license shall comply with and be subject to all the provisions of Sections 11-23, 11-26, and 11-27. An applicant for a license under this section shall pay a license fee of fifty dollars (\$50).

Sections 11-32 through 11-35 Reserved

Article III - GENERAL BUSINESS

Section 11- 36 License Required

It shall be unlawful for any entertainment provider, service provider, retailer, wholesaler, restaurant owner, lodging owner, food cart , mobile food unit, or supplier to conduct business within the Town of Brattleboro without first obtaining a General Business license therefor as provided herein.

Section 11-37 Definitions (Reserved)

Section 11-38 Application

The application for a general business license shall be submitted to the Assessor's Office for approval on forms provided therefor and contain all information relevant and necessary to determine whether a general business license may be issued.

Section 11-39 Fees

An applicant for a license under this Section shall pay an annual license fee of \$50 per Business.

Sections 11-40 through 11-43 Reserved

Article IV TAXICABS

Section 11-44 Taxicab Driver's Permit

No person may originate any fare or pick up any passenger in a taxicab within the limits of the Town unless he or she has a permit to operate as a taxicab driver as required by this Chapter.

Application.

Each applicant for a taxicab driver's permit to operate within the Town shall, on a form to be provided by the Town, provide all requested information and sign and swear as to the accuracy of the information provided on the application.

In order to be eligible to hold a Town taxicab driver's permit, the applicant must:

- (1) hold a driver's license valid in any State in the United States, including any necessary endorsements;
- (2) be twenty-one (21) years of age;
- (3) have a thorough knowledge of the laws of the State of Vermont affecting or regulating the operation of motor vehicles and of the traffic ordinances of the Town of Brattleboro; and
- (4) pay the fee for a record check to be conducted through the Vermont Criminal Information Center as determined by the VCIC as may be amended from time to time.

Standards for Permits.

- (1) A sufficient number of permits to meet the public need within the Town shall be issued by the Town to applicants meeting the standards established in this Article.
- (2) By making application for a taxicab driver's permit, the applicant shall be deemed to have authorized an investigation by the Town to his or her qualifications, including his or her criminal and motor vehicle record in this and any other state. The Town shall be permitted but not obligated to investigate the applicant's qualifications. Neither the Town's right to make investigations nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of any third person, to determine or warrant that such applicant is qualified to operate a taxicab. The applicant must agree to abide by the terms and conditions of this ordinance and comply with all local, state and federal laws.
- (3) A person shall be presumed to be unsuitable to operate a taxicab within the Town should any of the following apply: (a) the person has been

convicted of a felony under the laws of this or any other state; (b) the person has been found to have been guilty of negligence in a civil action for damages in more than two motor vehicle accidents in a five-year period immediately preceding the license application; or (c) the person has been convicted of driving while under the influence or careless and negligent operation pursuant to 23 V.S.A. 1201 or 23 V.S.A. 1091 or like statute of another state at any time in a five-year period immediately preceding the license application. There shall be an ongoing obligation for the applicant to disclose in writing to the Town any pending criminal charges or new convictions that occur after the application is filed or after issuance.

(4) Persons holding a permit to operate a taxicab must be neat and clean, both in personal hygiene and in clothing and courteous while engaged in the furnishing of operating a taxicab. Persons holding a permit to operate a taxicab pursuant to this ordinance must wear suitable attire at all times, to include: shirts, shoes, sneakers, or boots and socks; slacks or knee length shorts or skirts.

(5) A taxicab driver's permit required by this division may be granted only after the applicant has furnished to the Town Manager a physician's certificate that he or she is in good health and that his or her eyesight (with or without glasses) and hearing are normal.

(6) A person who fails to completely disclose all information requested on an application or who misrepresents information on such application shall be prohibited from applying for or obtaining a permit for a minimum period of six months.

Issuance, Form and Duration.

(1) Once an application for a taxicab driver's permit has been approved by the Town Manager, the Town shall issue a permit to the applicant on payment of a fee of \$25 plus all costs associated with Vermont criminal background checks.

(2) A taxicab driver's permit shall expire annually on the first day of September.

(3) A taxicab driver's permit may not be sold, assigned or transferred to any other person.

Permit Displayed.

The taxicab driver's permit shall be prominently displayed within the taxicab at all times. A permit holder shall produce his or her permit upon request.

Employing or permitting a non-permit holder to drive prohibited.

No owner or person having the care or management of a taxicab shall employ or permit any person to drive the same other than a person holding a permit as herein required.

Section 11-45 Taxicab License

Taxicab License Required.

No person may originate any fare or pick up any passenger in a taxicab, nor advertise for use as a taxicab, within the limits of the Town any motor vehicle, or cause the same to be so operated, unless such motor vehicle is licensed for such use as provided by this Article.

Application.

A taxicab license shall be issued by the Town upon a determination that all requirements of this Article have been met. Should the application for taxicab license be denied, an appeal may be taken to the Selectboard as set forth in Section 11-47.

Standards for Issuance.

- (1) The applicant must present documentation that the motor vehicle to be licensed has been inspected by an official state inspector of motor vehicles.
- (2) The licensee shall maintain the taxicab in a safe condition and suitable for public patronage. A licensee whose taxicab is found to be unsafe or in any way unsuitable for public patronage may have his or her taxicab license suspended or revoked pursuant to this Article and before being placed in service again shall provide written certification that the unsafe condition has been fixed.

The Town shall be permitted but not obligated to inspect any taxicab licensed under this Article. Neither the Town's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of a third person to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

- (3) The applicant must present a certificate of insurance for liability insurance coverage with a responsible company authorized to do business in the State of Vermont for the payment of a minimum of \$50,000.00 for injury to, or death of any one person in any accident subject to a minimum limit per accident of \$100,000.00 for injuries to or death of all persons in any one accident if the vehicle has a seating capacity of seven (7) passengers or less, subject to a minimum limit per accident of \$250,000.00 for injuries to or death of all persons in any one accident if the vehicle has a seating capacity

from eight to twelve (8-12) passengers inclusive, subject to a minimum limit per accident of \$300,000.00 for injuries to or death of all persons in any one accident if the vehicle has a seating capacity from thirteen to twenty (13-20) passengers inclusive, subject to a minimum limit per accident of \$350,000.00 for injuries to or death of all persons in any one accident if the vehicle has a seating capacity from twenty-one to thirty (21-30) passengers inclusive, subject to a minimum limit per accident of \$400,000.00 for injuries to or death of all persons in any one accident if the vehicle has a seating capacity exceeding thirty passengers, and \$50,000.00 from damages to property in any accident.

The policy shall not lapse, expire or be canceled while the taxicab license described therein is in force, except upon surrender and cancellation of the taxicab license when cancellation of such policy is made by the insured, or upon ten (10) days' notice to the Town and the insured when cancellation is made by the company issuing such policy. There shall be an ongoing obligation for the applicant to disclose in writing if the policy is canceled or altered in any way or if the certificate of the Commissioner of the Vermont Department of Motor Vehicles is suspended or revoked. In case a policy is canceled by the company, as herein provided, and the insured does not furnish a new policy within the ten (10) day period herein mentioned, the Chief of Police shall suspend the taxicab license as set forth in Section 11-46.

The owner of a taxicab shall not operate or cause or permit such vehicle to be operated in the carrying of passengers for hire, unless the required policy of insurance is in force upon such vehicle, nor unless the certificate of the Commissioner of the Vermont Department of Motor Vehicles authorizing the operation of the taxicab is in force.

Issuance, Form and Duration.

(1) Once an application for a taxicab license has been approved by the Town Manager, the Town shall issue a license to the applicant on payment of a fee of one hundred dollars (\$100.00) for each original taxicab license, and fifty dollars (\$50.00) for each annual renewal thereof.

License Displayed.

Upon issuance, the taxicab license shall be prominently displayed in the taxicab at all times.

Section 11-46 Suspension and Revocation of Permit and/or License

Each permit and/or license required by this Article may be suspended at any time by the Chief of Police or his or her designee upon his or her reasonable belief that the vehicle is not in safe operating condition or the conduct of the driver poses a risk to public safety. The permit holder and/or licensee shall be notified in writing of a date

for a hearing before the Selectboard within five (5) business days of the suspension by the Chief of Police. The Selectboard may continue or dismiss the suspension of that license or may order the revocation of that permit and/or license.

Section 11-47 Appeal from Denial or Suspension of Permit and/or License

An applicant who has been denied a permit and/or license or whose permit and/or license has been suspended or revoked by the Town for failure to comply with all the requirements of this Article may appeal that denial, suspension or revocation to the Selectboard, by written notice which shall be received by the Town within five (5) business days.

The applicant shall be entitled to be represented by counsel, to summon witnesses on his or her own behalf, and to cross-examine those witnesses who testify regarding the application.

The Selectboard shall review the evidence presented and shall have the discretion to grant or deny the permit and/or license request. The decision of the Selectboard shall be final.

Sec. 11-48 Penalty

A person who operates a taxicab for the purpose of carrying passengers for hire, without a license and/or permit, shall be fined two hundred dollars (\$200.00) and the waiver fee shall be one hundred dollars (\$100.00).

Sections 11-49 through 11-55 Reserved

Article V ITINERANT PHOTOGRAPHERS

Section 11-56 License Required

Each person who practices the profession of an itinerant photographer in the Town limits, whether as principal, agent, or servant and whether engaged in soliciting or in one or more of the operations involved in the making of photographic pictures or reproductions, shall obtain a license as hereinafter provided.

Section 11-57 Definitions

For the purpose of this chapter "itinerant photographer" means a person, partnership or corporation having no regularly established place of business in this state who personally or by agent or servant goes from town to town or from place to place within a town soliciting the making of photographic pictures or reproduction with a view of selling the same to the person solicited.

Section 11-58 Application for License

Before a license is granted, an application signed by the applicant shall be presented to the Town Clerk.

Section 11-59 License Fee

The applicant shall pay a license fee to the Town in the sum of thirty-five dollars (\$35).

Sections 11-60 through 11-63 Reserved

Article VI SALVAGE YARDS

Section 11-64 License Required

A person shall not operate, establish or maintain a salvage yard until he: (1) has obtained a license to operate a junkyard business from the State of Vermont, and (2) has obtained a certificate of approved location from the Selectboard and the Development Review Board.

Section 11-65 Definitions

Salvage Yard — means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway or navigable water. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs

Junk - means old or scrap copper, brass, iron, steel and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash or any discarded, dismantled, wrecked, scrapped or ruined motor vehicles or parts thereof.

Section 11-66 Application for Certificate of Approved Location

Applications for the certificate of approved location shall be made in writing first to the Development Review Board. If the Board approves the location, then a certificate to that effect must accompany the written application and be presented to the Selectboard for final approval before submission to the State of Vermont.

Section 11-67 License Fees

The annual license fee shall be Three Hundred Dollars (\$300) to be paid at the time of application for the certification of approved location. The applicant will also be charged with costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto.

Section 11-68 Renewals

For annual renewals see Section 11-11.

Sections 11-69 Penalties

Failure to license a salvage yard annually as required in this Article shall result in the owner being fined \$500 (five-hundred) per day and the waiver fee shall be \$250 (two-hundred and fifty dollars) per day.

Reserved Sections 11-70 through 11-75

Article VII ENTERTAINMENT

Section 11-76 License Required

No business that provides live entertainment as a supplement to their main business and no person shall play any musical instrument or perform other entertainment such as dance or mime for remuneration unless duly licensed as provided by this Article.

Section 11-77 License Fees

The fee for such license shall be paid to the Town Clerk at the time of the application. Said fee shall be refunded in the event no license is granted. The fee for an entertainment license required by this Section shall be as follows:

One Day	\$10.00
Weekend (Friday – Sunday)	\$25.00
One Year	\$75.00

Section 11-78 License Application

The applicant shall file a signed application with the Town Manager.

Section 11-79 License Granted

All licenses shall be granted by the Town Manager provided that the Town shall limit such issuance to ensure that no more than eight (8) street musicians or entertainers shall be in the downtown area at one time; and provided further that the Town Manager may refuse to grant a license if it finds in his/her discretion that issuance to the applicant would jeopardize the public health, safety or general welfare. In granting such licenses, the Town Manager shall have the authority to designate specific sites for each street musician or entertainer.

Sections 11-80 through 11-83 Reserved

Article VIII - LIQUOR

Section 11-84 Authority

This Article is enacted pursuant to the authority granted the Town to promote the public health, safety, welfare and convenience contained in 24 V.S.A. §2291, and Article IV, Sections 27 - 29 of the Charter of the Town of Brattleboro.

Section 11-85 Definitions

As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

1. Town: Town of Brattleboro.
2. Affected Premises or Club Premises: Any place including all hallways, bathrooms, parking areas and other adjacent portions of the premises which are accessible to the public during operating hours.
3. Entertainment club: Premises possessing a first and/or third class liquor license which are open to the public.
4. Over Twenty-one club: Any entertainment club which restricts its admission to persons age 21 years and over.
5. Person: One or more persons, corporations, partnerships, associations or other entities capable of having an action of law brought against such entity.

Section 11-86 Access by Town Officials

All Police Officers and other authorized Town officials shall have access to all entertainment clubs and restaurants for the purpose of inspection and to enforce compliance with the provisions of this Article at all times.

Section 11-87 Operating Rules and Regulations

The following operating rules and regulations shall apply to all Liquor license holders:

1. No person under the age of 21 years shall be permitted to enter or remain on the premises of an over twenty-one club unless accompanied by a parent or legal guardian, except for entertainers hired by the licensee to work in the club.
2. It shall be the obligation of the licensee to employ an adequate number of qualified security personnel who will be present on club premises during all operating hours to maintain peace and order and to ensure compliance with all applicable laws of the State and of the Town.

3. It shall be the obligation of the licensee to prevent the creation of public nuisances or disturbances of the peace by any patrons on affected premises or in the immediate vicinity.
4. It shall be the obligation of the licensee to clean up all litter resulting from operations. The cleanup shall occur within eight hours after the end of each day's operation.
5. It shall be the duty of the licensee to notify the Town of the existence of any warnings, tickets, citations or other enforcement of whatever nature issued to the licensee.

Section 11-88 Checking the Age of Patrons

It is the responsibility of the licensee to require picture identification or a reasonable equivalent showing the age of each person admitted to an entertainment club. It is unlawful for any person knowingly or recklessly to allow a person to enter or remain on the premises of an entertainment club in violation of the age restrictions of this Article.

It is unlawful for any person to misrepresent his or her age for the purpose of obtaining admission to, or remaining at, an entertainment club in violation of the provisions of this Article or of the club's permit.

Section 11-89 Criteria for Awarding a Liquor License

1. Establishments shall prepare a written Alcohol Sales Policy identifying steps that staff must take for every transaction. This policy shall include:
 - a) Checking identification – including what perceived age triggers an identification check; what are acceptable forms of identification; and when is a second form of identification required
 - b) Identifying fake Identification and/or third party sales – including what to do if identification appears to be fake or a third party sale is suspected.
 - c) Dealing with intoxicated/disruptive customers – including how to deny a sale
 - d) Procedure for contacting law enforcement and keeping records of occurrences
 - e) Consequences/corrective actions for staff who fail to check Ids, serve intoxicated customers or violate relevant laws pertaining to the sale/serving of alcohol
2. A new licensee must be present at the Selectboard meeting where the license is being discussed
3. Licensees must respond in writing to a notice of alcohol-related incidents issued by the Brattleboro Police Department within two weeks of when the notice is mailed.

4. When a liquor license is renewed, information on violations (including whether or not licensee responded to alcohol violations within the two-week period) will be given to the Selectboard prior to the meeting at which the renewal is to be discussed.
5. The licensee will provide information on whether he/she has held a prior liquor license and, if so, where and when that license was held.

Section 11-90 Suspension or Revocation of Licenses

The Selectboard/Local Liquor Commissioners may, at any time, adopt rules and procedures for the granting of liquor licenses, suspend or revoke an entertainment club/restaurant/liquor license based on any of the following grounds:

1. Violation of any Town Ordinance or regulation or State law or regulation including Vermont liquor control laws and regulations or any other condition of the license.
2. Failure to comply with the operating rules and regulations of restaurants and/or entertainment clubs specified in this Article.
3. Material misrepresentation, or failure to disclose any material information to the Town, in connection with any application for the entertainment club/restaurant license or any license renewal.
4. Knowingly allowing conduct on the licensed premises that violates any Federal, State or Town criminal or penal statute, law or ordinance.
5. Whenever operation of the restaurant/entertainment club becomes the proximate cause of a significant increase in disturbance on the premises or in the immediate vicinity of the premises.

The licensee shall have notice of any action to suspend or revoke the license and the opportunity to be heard prior to the imposition of any penalty.

Any action taken pursuant to this Article by the Selectboard will be taken at a regular meeting of the Board or a special meeting duly warned for that purpose, with written notice by first class mail to the holder of the license at the address provided on the application that such action is on the agenda for said meeting.

Section 11-91 Duty to Provide Ash Receptacles

Within the Town, any person or entity holding a license to sell or distribute cigarettes or tobacco products, pursuant to 32 V.S.A. §§ 7701, et seq., or holding a license to sell malt or vinous beverages, pursuant to 7 V.S.A. §§ 221, et seq., or holding an entertainment club/restaurant license, shall be required to maintain an appropriate receptacle for disposal of cigarettes and ash within fifteen (15') feet of the door to the establishment.

Appropriate receptacles include ashtrays, gravel-filled cans, or other receptacles designed to be inflammable and used for disposal of cigarette butts and ashes.

Failure to comply with this section shall be deemed a public nuisance and unlawful. Persons found in violation of this Section shall receive a warning for the first offense and a One Hundred (\$100.00) Dollar fine for each subsequent offense and the waiver fee shall be Fifty (\$50.00) Dollars. Each day that a violation shall continue to exist shall constitute a separate violation.

Section 11-92 Severability

The provisions of this Article are severable. If any provision of this Article or its application to any person or entity or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provisions of application.

Section 11-93 Civil Ordinance

This Article shall be designated a civil ordinance pursuant to 24 V.S.A. § 1971(b). It shall be the duty of any police officer or the health officer of the town to enforce these provisions against any person or entity found in violation thereof.

Sections 11-94 through 11-96 Reserved

Article IX CIRCUSES, CARNIVALS and SHOWS

Section 11-97 Permit Required

No person or corporation shall conduct or exhibit a circus, carnival, or similar show within the Town limits until he shall have first obtained a state license therefor; such state license shall be prerequisite for a Town permit and shall be shown to the Town Clerk employee taking the permit fee and notice thereof shall be duly recorded on such application provided, however, that the Selectboard is nevertheless authorized to waive or to reduce the Town's permit fee in its discretion in the event that a circus or carnival is sponsored by and benefits in some measure a non-profit civic, social or charitable organization.

Section 11-98 Permit Fee

The fee for such a permit shall be one hundred dollars (\$100) per day.

Article X PARADES AND OPEN AIR MEETINGS

Section 11-99 Definitions

As used in this Article the following terms shall have the following meanings:

Open air meeting is any congregation or gathering of citizens held outdoors and upon any street, park or other public property for the purpose of hearing speakers or discussing, or demonstrating with respect to, some matter of common interest where the number of participants expected may reasonably be assumed to exceed fifty (50).

Parade is any parade, march, ceremony, pageant, or procession of any kind, or any similar display, in or upon any street, park or other public property.

Street, park or public property is any street, park or other public property under the control of the Town with the exception of such property as shall be under the control of the directors of the Town School District.

Section 11-100 Duties of Permittee

A permittee under the provisions of this Article shall comply with the provisions of the permit and with all applicable laws and ordinances. The chairperson or other person responsible for the conduct of the parade or open air meeting shall carry the permit upon his person during the conduct of the parade or open air meeting.

Section 11-101 Unreasonable interference with parades and meetings prohibited

No person shall unreasonably hamper, obstruct, impede, disrupt or interfere with the conduct of any parade or open air meeting or with any person, vehicle or animal participating or used in such parade or open air meeting.

Section 11-102 Driving through parade prohibited

No person shall cause a motor vehicle to be driven between the motor vehicles or persons comprising a parade when such motor vehicles or persons comprising a parade are in motion and are conspicuously designated as a parade.

Section 11-103 Restriction of parking on parade route or meeting area

The Police Chief shall have the authority when reasonably necessary, to prohibit or restrict the parking of motor vehicles on a street or part thereof constituting part of the route of a parade or on streets or parts thereof in the vicinity of the area in which an open air meeting is to be conducted. The Police Chief shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any motor vehicle in violation thereof.

Section 11-104 Penalty

A person who fails to obtain a permit for a parade or open air meeting required by this Article and holds a parade or open air meeting shall be fined three hundred dollars (\$300.00) and the waiver fee shall be one hundred fifty dollars (\$150.00) and the parade or open air meeting shall immediately terminate.

Section 11-105 Permit Required; exceptions

No person shall organize, promote or participate in any parade or open air meeting unless a permit therefor shall have been obtained from the Town Manager pursuant to the provisions of this section; provided, however, that the provisions of this section shall not apply in the case of:

1. Funeral processions;
2. Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities; or
3. A governmental agency, including, among others, units of the armed forces of the state and federal governments, acting within the scope of its proper functions.

Section 11-106 Application - Contents; form

1. A person seeking issuance of a permit for a parade or open air meeting pursuant to this Article shall file an application with the Town Manager on forms provided by such officer.
2. The application for a permit for a parade or open air meeting required by this section shall set forth the following information:
 - a. The name, address, and telephone number of the person seeking to hold such parade or open air meeting;
 - b. If it is proposed that the parade or open air meeting be conducted for, on behalf of, or by an organization, the name, address and responsible heads of such organization;
 - c. The name, address and telephone number of the person who will be the chairperson of the parade or open air meeting and who will be directly responsible for its conduct;
 - d. The date when the parade or open air meeting is to be held;
 - e. The times at which the parade or open air meeting will start and will terminate;
 - f. In the case of a parade, the route to be traveled, the starting point and the termination point; in the case of an open air meeting, the place or area in which it will be held;
 - g. In the case of a parade, the approximate number of persons, animals and vehicles which, will constitute such parade, the type of animals and the description of the vehicles; in the case of an open air meeting, the approximate number of persons who will attend such meeting and the names, if known, of the persons who will address such meeting;
 - h. In the case of a parade, a statement as to whether the parade will occupy all or only a portion of the width of the streets it is proposed to traverse and the interval of space to be maintained between units of the parade;

- i. In the case of a parade, the location by streets of any assembly areas for such parade and the time at which units of the parade will begin to assemble at such assembly area or areas; and
 - j. Any additional information which the Town Manager shall find reasonably necessary to a fair determination as to whether a permit should be issued.
3. If the parade or open air meeting is to be held by, on behalf of, or for any person other than the applicant, the applicant shall file with the application a statement in writing signed by such person authorizing the applicant to apply for such permit for or on behalf of such person.

Section 11-107 Fees

An applicant for a license under this Article shall pay an annual license fee of \$25 per event.

Section 11-108 Filing

An application for a permit to hold a parade or open air meeting required by this section shall be filed with the Town Manager not less than two weeks (excluding Saturdays, Sundays and holidays) before the date on which it is proposed to hold the parade or open air meeting; provided, however, that the Town Manager, where good cause is shown therefor, shall have the authority to consider an application which has been filed less than two weeks before the date on which it is proposed to hold such parade or open meeting and to issue a permit therefor.

Sec. 11-109 Action Required

The Selectboard shall act upon each application for a permit for a parade required by this Article. The Town Manager shall act upon each application for an open air permit. If the Selectboard or Town Manager shall deny such application, a written notice of action which shall state the reasons for the denial of the permit shall be mailed to the applicant.

Section 11-110 Standards for Issuance

The Selectboard shall issue a permit for a parade and the Town Manager shall issue a permit for an open air meeting required by this section, as provided hereinafter, when, upon consideration of the application and other information as it may otherwise obtain, it finds that:

1. The conduct of the parade or the open air meeting is not reasonably likely to cause or promote a breach of the peace, to cause injury to persons or property, to provoke disorderly conduct, or to create a public nuisance.
2. The conduct of the parade or the open air meeting will not substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic at or contiguous to the route of such parade and its assembly areas or the place of such open air meeting or unreasonably interfere with the rights of other persons who utilize the public ways.
3. The conduct of the parade or the open air meeting will not require the diversion of so great a number of police officers of the Town properly to police the assembly areas, the route of such parade and the areas contiguous thereto or the place of such open air meeting as to prevent the maintenance of normal police protection throughout the Town.

4. The conduct of the parade or the open air meeting will not unreasonably interfere with the movement of fire-fighting equipment en route to a fire or otherwise prevent the maintenance of normal fire protection throughout the Town.
5. The conduct of the parade or the open air meeting will not unreasonably affect or interrupt business and commerce within the area through which the parade will proceed or the open air meeting will be held or within any other area of the Town.
6. The concentration of persons, animals and vehicles at assembly areas, or along the route, of the parade or the concentration of persons and vehicles at or near the place of the open air meeting will not unreasonably interfere with the maintenance of normal police and fire protection of, or ambulance service to, areas contiguous to such assembly areas, the route of the parade or the place of such open air meeting, or to any other part of the Town.
7. The conduct of the parade or open air meeting will not be detrimental to the health, safety or welfare of the residents of the Town or any section thereof.

Sec. 11-111 Alternate Permit

The Selectboard or Town Manager, in denying an application for a permit for a parade or open air meeting, may issue an alternate permit authorizing the conduct of the parade or open air meeting on a date, at a time, over a route or at a place other than that stated in the application. An applicant shall indicate his acceptance of such alternate permit in writing within one (1) day after the date of the denial of the original application. An alternate permit shall conform to the requirements of this Article and shall have the full effect of a permit under this Article.

Section 11-112 Appeal

Any person whose application for a permit for a parade or open air meeting required by this Article shall have been denied, or any person who shall have been issued such a permit and shall have had such permit revoked prior to the time set in said permit for such parade or open air meeting, may appeal the denial or revocation by requesting a hearing before the Selectboard. The hearing shall be held in accordance with Section 11-7.

Section 11-113 Notice to Town Officials

Immediately upon the issuance of a permit for a parade or open air meeting, or upon the revocation of such a permit, the Town Manager shall send a copy of such permit or of such notice of revocation to the Police Chief, Fire Chief, and Director of Public Works.

Sections 11-114 through 11-117 Reserved