

## ARTICLE 14. VENDING IN THE PUBLIC WAY (Ord. 3/2007, 01/2023)

Section 5-401. Purpose. The purpose of this Article is to regulate the use of the City's sidewalks and other public ways within the C-I, Downtown Business, Zoning District, for the purpose of barter, trade, exhibition, display or sale of goods, merchandise or food, in a manner that creates a diversity of products available in the downtown, in order to bring additional customers and patrons to the downtown area, to create a more festive downtown street atmosphere which will enrich the downtown's ambience and to do so in a manner that will not create any hazard to pedestrians or vehicles in the downtown area, and will be fair and equitable to permanent vendors and merchants located and doing business in the downtown area.

### Section 5-402- Definitions.

MOBILE FOOD VENDOR. Any business which sells edible goods from a nonstationary location within the City. A mobile food vendor shall include, but not be limited to:

1. MOBILE FOOD TRUCK— A self-contained motorized unit selling items defined as "edible goods".
2. SIDEWALK VENDING UNIT— A vending unit which is pulled by a motorized unit or **pushed by hand** and has no power to move on its own.

Section 5-402. License Required. No person or business entity may sell, demonstrate, distribute samples of, or solicit or take orders for goods; sell or offer to sell, display for sale, demonstrate or distribute samples of or soliciting or taking orders for any food, beverages, or services, in any street or public place, nor shall any artist who manually paints, sketches or draws on plain surfaces whose work is for sale to the public, conduct such activities without first having procured a license under the terms and conditions of this Article, from the City Codes Enforcement Office. The Codes Enforcement Officer, with approval of the Sidewalk Vending Committee City Council Representative, can approve limited duration sales by nonprofit organizations that may or may not comply with the standards in this ordinance.

Section 5-403 Designated License Area. The area to which the provisions of this Article 14 apply, shall be limited to the public sidewalks, streets, alleys or any other City owned property within the C-I, Downtown Business, Zoning District.

### Section 5-404. Location of Designated Areas.

#### A. Permanent Locations.

1. The following shall be designated as permanent sidewalk vendor sites:

Elm Street Plaza  
Waterfront Park Area (2 sites)  
Customs House

2. The following shall be designated as permanent mobile food truck vending sites: The four southern-most parking spaces located on the Easterly side of Commercial Street adjacent to the Riverwalk Southern Terminus/Guildford Lot

B. Additional Locations.

The Sidewalk Vending Committee shall meet and determine whether an additional requested location may be designated if found to be in accordance with the provisions of this Ordinance.

Section 5-405. Location Restrictions. Each permanent location, each additional designated location and locations approved for operators will only allow use of a maximum of forty percent (40%) of the width of the sidewalk and must leave an unoccupied width of at least four feet (4') for the full frontage of the designated area where the street vendor unit or display is located. Mobile food vending in public parking spaces must not impede vehicular or pedestrian traffic. Vendors who are not operators, may be licensed for additional designated locations that are no closer than two hundred feet (200') from a retail establishment selling similar goods, and if selling food, shall be at least two hundred feet (200') from any restaurant or other food service establishment. All food street vendor locations shall be at least two hundred feet (200') from any other food service vendor location selling the same or similar goods or food items. These footage separation requirements may be waived by the Sidewalk Vending Committee if it can be demonstrated by the applicant that the proposed vending does not present unreasonable competition with businesses within the separation area.

Section 5-406. Classification of Locations.

A. Operators.

1. Restaurants. The operators of restaurants may receive permits to serve customers at tables on the sidewalk area in front of their restaurants. No location approval shall be required but a license from the Codes Enforcement Officer will be required prior to occupying the location.

2. Retail Establishments. Persons or business enterprises who are operators of retail establishments, may receive permits to place any goods or merchandise on a location in front of their establishment. No location approval shall be required but a license from the Codes Enforcement Officer will be required prior to occupying the location.

B. Street Vendors.

1. Street vendors who are not owners or tenants, may occupy any other designated location approved by the Sidewalk Vending Committee that is not allocated to owners or tenants.

Section 5-407. Sidewalk Vending Committee. A Sidewalk Vending Committee consisting of one (1) member of the Bath City Council, one (1) downtown food service operator, one (1) downtown retail merchant, and one (1) at large member appointed by the City Council, Main Street Bath President or designee, the Codes Enforcement Officer, and the City Planner,

shall be established. The Bath City Council member shall be appointed for a one (1) year term, and the downtown food service operator, downtown retail merchant, at large member, and Main Street Bath President or designee shall be appointed by the City Council, for three (3) year terms. This Committee shall designate appropriate additional locations for sidewalk vending and shall review and determine the qualifications of applicants for designated locations and refer same to the Codes Enforcement Office for the issuance of licenses.

Section 5-408. License Period and Time of Operation. Licenses issued to vendors or to owners or tenants, shall be for the period beginning on May 1<sup>st</sup> of each year and extending through April 30<sup>th</sup> of the following year. The time of operation shall be no earlier than 6:00 a.m. and all operations shall cease by 10:30 p.m. and all vendor units must be removed from public ways and public property by 11:00 p.m.

ADMINISTRATIVE NOTE: THESE LICENSES DO NOT INCLUDE VENDING DURING HERITAGE DAYS (the City's 4<sup>th</sup> of July festival). VENDING DURING HERITAGE DAYS IS CONTROLLED BY MAIN STREET BATH (442-7291 [director@visitbath.com](mailto:director@visitbath.com)).

Section 5-409. Transferability; License Limitations. Any license issued to a street vendor or to a person or business entity conducting street vending in a designated location, shall be specific to that business enterprise and location and shall not be transferable to any other person or business entity. The license shall be for the specific food items or goods and merchandise specified in the license and for no other purpose.

#### Section 5-410. Applications.

A. Submission – Date. Applications shall be submitted to the Bath Codes Enforcement Office on forms supplied by that office no earlier than April 1<sup>st</sup> of each year.

B. Contents. The application shall contain at least the following information:

The name, address, and telephone number of the applicant.

The proposed street or City location.

The type of food or goods and/or merchandise proposed to be bartered, traded, exhibited, displayed or sold.

Proposed days and times of operation.

A photograph or sketch or written description of the cart, vehicle, stand, booth or other equipment used for the vending enterprise.

Proof of liability insurance as required under Section 5-413 below.

A color photograph or color drawing of the unit or display.

A detail of signage accompanying the unit or display.

A list of all other licenses or permits that may be required in order to establish the sidewalk vending use.

Such other information as may be necessary to demonstrate that the approval criteria will be met.

C. Approval Criteria.

The location of the vending will not hamper sight distance for either vehicular or pedestrian traffic.

The cart, vehicle, stand, booth, or the like from which the goods or merchandise will be bartered, traded, exhibited, displayed, or sold is attractive, well maintained, and compatible in a design sense with the location in which it is proposed.

The applicant, if a repeat applicant, has demonstrated the ability and willingness to operate the vending business well and in conformance with the requirements and purpose of this Section.

The location does not block a walkway, entryway, access drive, or driveway to any business.

The location does not hamper access for emergency vehicles or personnel.

The location and physical characteristics of the site will not create a hazard to public health, safety, or the general welfare.

The vendor has received all other required State or local permits for conduct of the vending operation. If all other required permits have not been received, then any approval issued for a sidewalk vendor's license, shall be contingent upon receipt of all other required licenses and permits.

The Committee may attach such reasonable conditions to their approval as may be necessary to carry out the purposes of this Article, to protect the public, or to assure compliance with the licensing terms and requirements.

Section 5-411. Longevity. Where an applicant is applying for the same designated location as has been licensed to that applicant in the previous year, the Codes Enforcement Officer can approve the application without committee review if the vendor operated in conformance with the ordinance requirements the previous year. If the vendor did not operate per the ordinance requirements the previous year, committee review is required for the new application. If there is more than one application for the same vending location, the committee shall decide whether to approve the vendor from the previous year or not.

Section 5-412. Inspection and Approval. Prior to any sidewalk. Or mobile food truck vending unit being placed into operation, it shall be inspected by the City Codes Enforcement Officer for compliance with the requirements of this Article, to determine that the unit has been accurately described in the application and that the goods, merchandise or food being sold from the unit correspond to the items listed in the application.

Section 5-413. Liability Insurance. No street vendor's license shall be issued without an applicant first filing with the Codes Enforcement Office a certificate, in a form satisfactory to the City Solicitor, evidencing public liability insurance coverage in an amount not less than the maximum liability under applicable law and which names the City as additional insured. The certificate shall also provide for notice to the Codes Enforcement Officer, not less than thirty (30) days prior to any cancellation of insurance. The insurance will be maintained by the licensee at all times while engaged in street vending. The insurance shall be placed with a carrier that has been approved to do business in the State of Maine.

Section 5-414. Design Standards.

A. Sidewalk Vending Units: All sidewalk vending units shall be subject to the following design standards:

1. No more than four feet (4') in width, six feet (6') in length, exclusive of

fenders, tongue, 9or handles, and six feet (6') in height.

2. Able to transport and display all of the vendor's goods or food exclusive of drinks, which can be stored in a separate container or containers.
3. Any advertising on the unit shall be limited to the vendor's business or products.
4. The unit shall be readily moveable.
5. The unit may not be powered nor shall it use a generator of any type.

B. Mobile Food Truck: All mobile food truck vending units vending in a public way shall be subject to the following standards:

1. The mobile food truck must contain all equipment needed for the preparation of food within the mobile vending unit including trash and recycling receptables.
2. The mobile food truck must keep the site clean of litter within a radius of thirty feet of the location and shall provide a receptacle immediately adjacent to the unit for associated trash. Trash and trash receptacles shall be removed each evening and trash shall not be placed in City trash cans.
3. The mobile food vending unit must not have any lighting except localized lighting used on or in the mobile unit for the purpose of food preparation and menu illumination.
4. Advertising for the unit shall be limited to the vendor's business or products and shall meet the requirements of Section 5-40.1 of the Code of the City of Bath.
5. The unit must be registered by the Maine Department of Motor Vehicles and licensed by the Maine Department of Health and Human Services as well as must be inspected by the Code Enforcement Officer of the City of Bath.
6. Mobile food units and any associated equipment must be maintained and operated in a safe, working condition at all times and in a manner which minimizes noise, exhaust and odors impacting the public and surrounding public and private properties so as not to create a public or private nuisance. The operation of any mobile food unit which fails to meet the standards of safety established by the laws of the State or the City, operates in a manner that creates a threat to the health, safety, and welfare of the public, or fails to obey a lawful order of law enforcement or licensing personnel, shall be discontinued until such time as the deficiency is eliminated.

Section 5-415. Abandonment. The vendor shall continue to use the site at least three (3) days per week, during the months of June, July and August, unless prohibited by weather conditions, or the site shall be considered to be abandoned and will be eligible for allocation to another vendor.

Section 5-416. Conduct - Prohibitions.

A. The location and operation shall not restrict ingress or egress of pedestrian traffic to abutting commercial locations.

- B. The location and operation shall present no hazard to pedestrian or vehicular traffic.
- C. The operation and location shall not restrict access by emergency vehicles.
- D. Loading, unloading, set up and removal of the unit shall be accomplished in no more than thirty (30) minutes.
- E. The unit shall not be left unattended.
- F. The vendor shall keep the site clean of litter within a radius of thirty feet (30') of the location, and if serving food, shall provide a receptacle immediately adjacent to the unit for associated trash. The trash and trash receptacle shall be removed each evening at the same time the unit is removed from the location. This trash shall not be placed in City trash cans.
- G. The vendor shall not sell any food; goods or merchandise not specified in their license.
- H. The vendor shall not operate in a manner that would constitute an unfair or deceptive trade practice under state law.
- I. The vendor shall not make or cause noise in violation of city noise restrictions.
- J. The vendor shall not alter, change, or add to the unit as approved except with the permission of the committee.
- K. The vendor shall not verbally solicit business.

Section 5-417. Waivers. The provisions of this Article may be waived or modified by the Bath City Council for special events and holiday celebrations.

Section 5-418. Fees. Processing fees and license fees shall be set by resolution of the Bath City Council and shall be submitted with the Application.

***(3-7-07) NOW, THEREFORE, BE IT RESOLVED*** by the City Council of the City of Bath that a processing fee of Fifty Dollars (\$50.00) shall accompany the submission of any application for a sidewalk vending license. Upon granting of the license, then a license or spot fee shall be assessed which shall be as follows:

\$200.00	<i>Elm Street Location</i>
\$200.00	<i>Customs House Location</i>
\$200.00	<i>Waterfront Locations</i>
\$200.00	<i>All Other Locations</i>

The application fee for mobile food vending license is \$50.00. Upon granting of the license, then a license/spot fee shall be assessed which shall be as follows:

\$200.00	Commercial Street Location
\$200.00	All Other Locations

Section 5-419. Enforcement. This Article is enforced by the City Codes Enforcement Officer.

Section 5-420. Violations – Remedies. Upon violation of any of the terms or conditions in this Article or any of the licensure requirements, the Codes Enforcement Officer shall have all of the remedies available as in any codes enforcement action, including, but not limited to, the assessment of penalties, not to exceed two hundred fifty dollars (\$250.00) for the first violation, and not to exceed five hundred dollars (\$500.00) for any second or subsequent violation, and the ability to suspend a license, and the ability to cause removal of the vending unit. A license may be revoked by a majority vote of the Sidewalk Vending Committee, after hearing at which the licensee shall have an opportunity to demonstrate why the revocation should not occur. The revocation shall be based upon violation of any of the terms, conditions, criteria or prohibitions at set forth in the Ordinance. Any suspension imposed by the Codes Enforcement Officer shall remain in effect until a determination by the Sidewalk Vending Committee.

Section 5-421. Appeal. Any vendor may appeal any decision of the Sidewalk Vending Committee or the Codes Enforcement Officer rendered under this Article to the City of Bath Zoning Board of Appeals, by filing a notice with the Codes Enforcement Office, stating the decision being appealed from and the grounds for the appeal. Such an appeal must be filed within fourteen (14) days of the decision.