

Chapter 9. Licenses and Miscellaneous Business Regulations

ARTICLE I. In General

§ 9-1. through § 9-40. (Reserved)

ARTICLE II. Peddlers and Solicitors

§ 9-41. Definitions.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. II]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

PEDDLER

Any person over 16 years of age, whether principal or agent, who shall go from place to place within the Town selling or bartering or carrying for sale or barter or exposing therefor any goods, wares, or merchandise, either on foot or from any animal or vehicle.

SOLICITOR

Any person over 16 years of age, whether principal or agent, who shall go from place to place within the Town soliciting orders for future delivery of any goods, wares or merchandise, including magazines and other printed matter where full payment is required at the time of solicitation.

§ 9-42. Permit required.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. I]

No person shall carry on any trade or business upon the sidewalks or streets or highways or from house to house in the Town without a permit from the Town Clerk.

§ 9-43. Exemptions.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. III]

- (a) Generally. The provisions of § 9-42 shall not apply to persons who are soliciting orders of purchase for future delivery, selling, bartering or exposing for sale or barter, goods, wares, or merchandise to regularly established customers, to salesmen selling goods to retail or wholesale stores for resale, or to industrial establishments for processing; to newsboys, local clubs, local school organizations, 4-H clubs, scouting organizations and those exempted under the General Statutes from the operation of the general regulatory power to Towns with respect to peddling.
- (b) Festivals. In the case of the vending of any goods, sold at or upon the occasion of any public festival; charitable, educational, philanthropic, ecclesiastical, and civic organizations shall be exempt from § 9-42.

§ 9-44. License required; application; issuance; fee; term.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. IV]

- (a) Every person desiring to solicit or peddle upon the streets of the Town, except those exempted by § 9-43 shall complete an application blank provided by the Town Clerk for a solicitor's or peddler's license. Upon the filing of such application, the selectman shall require the applicant to give information concerning his place of residence, his physical description and business and whether or not he has been convicted of any crime, including any other reasonable information that may be requested by the selectman to adequately determine the business and purpose of such business. If the application is approved by the selectman, he shall refer the applicant to the Town Clerk who shall issue the license applied for as follows:
- (1) A solicitor's license for a period of 30 days, upon payment of a fee for each team or vehicle used in connection with such vending or peddling, for the privilege of so vending or peddling such merchandise.
 - (2) An initial peddler's license for a period of four months, upon the payment of a fee; the peddler's license being renewable on two successive four-month periods, upon payment of a fee on each successive renewal period up to one year.
- (b) The amount of the license fees shall be set from time to time and a schedule of such fees is on file in the Town Clerk's office.

§ 9-45. Restrictions.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. V]

- (a) No person engaged in the business of peddling shall solicit or peddle any goods in the public streets within 200 feet of any school.
- (b) No soliciting or peddling shall take place after 6:00 p.m., nor shall soliciting or peddling of any kind be conducted within the Town on Sundays or any holiday when the doing of secular business is suspended, except the vending of ice cream and refreshments.
- (c) A solicitor or peddler shall conduct himself at all times in an orderly and lawful manner.
- (d) No peddler or solicitor shall have an exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall any be permitted to operate in any congested area where his operations might impede or inconvenience the public.

§ 9-46. Identification required.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. VI]

- (a) Each permittee shall receive a written permit bearing the name of the permittee, permit number, and the words "licensed peddler Town of Durham" or "licensed solicitor Town of Durham" as the case may be, and with the expiration date of the permit.
- (b) The permittee must carry the permit with him when engaged in peddling or soliciting, and must show his permit to any inhabitant of the Town on request. No such permit shall be used by any other person than the permittee to whom the same was issued.

§ 9-47. Revocation of permits.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. VII]

Permits required by this article may be revoked for one or more of the following:

- (1) Fraud, misrepresentation, or false statements;
- (2) Violation of this article;

- (3) Conviction of a crime or misdemeanor.

§ 9-48. Penalty for violations.

[Comp. Ords. 1983, pg. 80, 7-26-76, art. VIII]

Any person violating any of the provisions of this article or any person who makes any false statements or misinterpretations of fact for the purpose of obtaining a license to solicit or peddle shall upon conviction thereof be subject to a fine in accordance with § 1-10 and each solicitation or sale being deemed a separate offense or to a revocation of his license to solicit or peddle, or both.

§ 9-49. through § 9-60. (Reserved)

ARTICLE III. Regulation of Adult-Oriented Establishments

§ 9-61. Findings and purpose.

[Ord. of 1-24-00, § 1]

- (a) There are, or may in the future be, "adult-oriented establishments" located in the Town which require special supervision from the Town's public safety agencies in order to protect and preserve the health, safety and welfare of the patrons of such establishments, as well as the health, safety and welfare of the Town's citizens.
- (b) Statistics and studies performed by a substantial number of cities and Towns in the United States indicate that:
- (1) Large numbers of persons, primarily male, frequent such "adult-oriented establishments" especially those which provide closed booths, cubicles, studios and rooms for the private viewing of so-called "adult" motion pictures and/or video tapes and/or live entertainment; and
 - (2) Persons under the age of 18 may be attracted to adult-oriented establishments and seek to enter or loiter about them without the knowledge or permission of their parents or guardians; and
 - (3) Such closed booths, cubicles, studios and rooms have been used by patrons, clients or customers of such "adult-oriented establishments" for the purpose of engaging in certain sexual acts; and
 - (4) Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles and rooms; and
 - (5) Doors, curtains, blinds and/or other closures installed in or on the entrances and/or exits of such booths, cubicles, studios, and rooms which are closed while such booths, cubicles, studios and rooms are in use encourage patrons using such booths, cubicles, studios and rooms to engage in sexual acts therein with prostitutes or others, thereby promoting and encouraging prostitution and the commission of sexual acts which cause blood, semen and urine to be deposited on the floors and/or walls of such booths, cubicles, studios and rooms, which deposits could prove detrimental to the health and safety of other persons who may come into contact with such deposits; and
 - (6) The reasonable regulation and supervision of such "adult-oriented establishments" tends to discourage such sexual acts and prostitution, and thereby promotes the health, safety and welfare of the patrons, clients and customers of such establishments.
 - (7) The nature of "adult-oriented establishments" and the traffic which they generate, and the potential and the propensity for such establishments to attract persons interested in explicit sexual activities or erotic art forms, and the potential for outdoor assembly of such persons around the premises of such establishments, are such as to make them incompatible with nearby uses of land where concentrations of children or youth tend to congregate;

- (c) The unregulated operation of adult-oriented establishments including, without limitations, those specifically cited at Subsection (b)(1) hereof, is and would be detrimental to the general welfare, health and safety of the citizens of the Town.
- (d) The Constitution and laws of the state grant to the Town powers, especially police power, to enact reasonable legislation and measures to regulate and supervise "adult-oriented establishments" as hereinafter defined in order to protect the public health, safety and welfare.
- (e) It is not the intent of the Town, in enacting this ordinance, to deny to any person rights to speech protected by the United States and/or State Constitutions, nor is it the intent of the Town to impose any additional limitations or restrictions on the contents or any communicative materials, including sexually oriented films, video tapes, books and/or other materials. Further, by enacting this section, the Town does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually oriented materials protected by the United States and/or State Constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute or exhibit such materials.

§ 9-62. Definitions.

[Ord. of 1-24-00]

For the purpose of this ordinance, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

ADULT AMUSEMENT MACHINE

Includes any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities and specified anatomical areas, as defined below, for observation by patrons therein.

ADULT BOOKSTORE

An establishment having any portion of its stock and trade in books, films, video cassettes, or magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, provided that this definition shall not apply to any establishment in which such materials constitute less than 10% of the value of the inventory of said establishment and in which the display of such materials does not permit the viewing of "specified sexual activities" or "specified anatomical areas" within the establishment.

ADULT ENTERTAINMENT

Any exhibition of any adult-oriented motion pictures, live performance, display or dance of any type, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers, which has as a significant or substantial portion of such performance or any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas"

ADULT MINI-MOTION PICTURE THEATER

An enclosed building with a capacity of less than 50 persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

ADULT MOTION PICTURE THEATER

An enclosed building with a capacity of 50 or more persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

ADULT-ORIENTED ESTABLISHMENT

Includes, without limitation, "adult bookstores," "adult motion picture theaters," "adult mini-motion picture theaters" and commercial establishments containing one or more "adult amusement machines." "Adult-oriented establishment" further means any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments

or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or any premises wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without limitation, any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

AMUSEMENT MACHINE

Includes any machine which upon the payment of a charge or upon insertion of a coin, slug, token, plate, or disk, may be operated by the public for use as a game, entertainment or amusement, whether or not registering a score and whether or not electronically operated.

BOARD OF SELECTMEN

The Board of Selectmen of the Town of Durham, Connecticut.

EMPLOYEE

Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

ENTERTAINER

Any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

INSPECTOR

One or more employees of the Town designated by the Board of Selectmen who shall hereby be authorized to inspect premises regulated under this article and to take the required actions authorized by this article in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises;

MINOR

Shall be deemed to refer to a person under the age of 18 years;

OPERATOR

Any person, or any proprietor, shareholder, general partner or limited partner who holds any share of or partnership interest of any business which is operating, conducting, owning or maintaining an adult-oriented establishment;

SEXUAL ACTIVITIES

As used in this article, is not intended to include any medical publications or films or bona fide educational publication or films, nor does it include any art or photography publications which denote at least 25% of the lineage of each issue to articles and advertisements dealing with subjects or art or photograph. Nor does this definition apply to any news periodical which reports or describes current events and which, from time to time, publishes photographs of nude or semi-nude persons in connection with the dissemination of the news. Nor does this definition apply to publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nudity is indigenous to the population.

SPECIFIED ANATOMICAL AREAS

- (1) Less than completely and opaquely covered;
 - a. Human genitals, pubic region;
 - b. Buttocks;
 - c. Female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state even if completely covered.

SPECIFIED SEXUAL ACTIVITIES

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

SUPERVISOR

The First Selectman of the Town;

§ 9-63. Requirements for adult-oriented establishments.

[Ord. of 1-24-00, § 3]

- (a) No operator or employee of an adult-oriented establishment shall allow or permit any minor or intoxicated person to loiter in any part of such establishment, including parking lots immediately adjacent to such establishment used by patrons of such adult-oriented establishment.
- (b) Every adult-oriented establishment shall display a sign outside each entrance bearing the words, "Adult-oriented establishment persons under 18 not admitted" in letters three inches high.
- (c) No adult-oriented establishment shall be conducted in such a manner that permits the observation of any material depicting specified sexual activities or specified anatomical areas, from the outside of the building that houses the adult-oriented establishment.
- (d) Every adult-oriented establishment doing business in the Town on or after the effective date of this article shall be well lighted at all times and be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of providing for the secluded viewing of adult-oriented motion pictures, or other types of adult-oriented entertainment.
- (e) On or after the effective date of this article the operator of each adult-oriented establishment shall be responsible for and shall provide that any room or other area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be well lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle as measured at the floor level. It shall be the duty of the operator and its agents to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (f) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (g) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this article.
- (h) All adult-oriented establishments shall be open to inspection at all reasonable times by the inspector, or such other person(s) as the Town may designate. Information regarding employees, including name, date of birth and social security number, must be maintained as part of the record and must be available for inspection by Town officials.

§ 9-64. Minimum distances from certain uses or zones.

[Ord. of 1-24-00, § 4]

Adult-oriented establishments shall be located no less than the distances given below from any of the following uses, if existing at the time when the adult-oriented establishment is established:

- (1) One thousand feet from any public or private school serving grade 12 or lower; any day care center, nursery school, or similar use; any public park or playground; any playground associated with a church or other community building; and any church.
- (2) Three hundred feet from any residential zone.
Measurements of distances shall be from any portion of the building housing such adult-oriented establishment to any portion of a parcel of land containing such land uses or being residentially zoned. The separating distance required by this section shall be determined as of the date that any adult-oriented establishment commences to operate in accordance with this article and any applicable provision(s) of the zoning regulations, building code, health Code, and other applicable state and local laws, and such adult-oriented establishment shall not be deemed to violate this section if, thereafter, one of the enumerated uses is established within the distance set forth herein.

§ 9-65. Minimum distances from other adult-oriented establishments.

[Ord. of 1-24-00, § 5]

No adult-oriented establishments shall be permitted in any portion of a building that is less than 1,000 feet from that portion of a building occupied by an existing adult-oriented establishment. The 1,000 feet shall be the straight horizontal distance from any part of a building housing an adult-oriented establishment to any part of the other building housing such use.

§ 9-66. Exemptions for pre-existing uses.

[Ord. of 1-24-00, § 6]

The provisions of the preceding §§ 9-64 and 9-65 shall not be deemed to prohibit any use pre-existing the enactment of this article. Any pre-existing use which shall be discontinued for a period of 30 days shall thereafter conform to sections 4 and 5.

§ 9-67. Penalties and prosecution.

[Ord. of 1-24-00, § 7]

- (a) Any person, partnership or corporation who is found to have violated this article shall be fined a definite sum not exceeding \$100 for each such violation.
- (b) Each violation of this article shall be considered a separate offense, and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation.

§ 9-68. Administration.

[Ord. of 1-24-00, § 8]

- (a) Unless otherwise stated, all notices and fines required or permitted by this article shall emanate from the First Selectman or the inspector designated by the Board of Selectmen. Fines shall be paid to the First Selectman.
- (b) Interest shall accrue at the rate of 1 1/2% per month on all fines outstanding for periods in excess of 30 days.

- (c) Fines and interest payable under this article shall be deposited into the Town's general fund.

§ 9-69. Appeal.

[Ord. of 1-24-00, § 9]

- (a) The Board of Selectmen shall serve as an appeals board for fines imposed under this article.
- (b) Whenever a fine is imposed under this article, the person fined, may, within 10 days from the date of the notice of the fine, appeal by filing a written notice of appeal with the First Selectman. The Board of Selectmen shall begin hearing the appeal no later than 30 days from its receipt by the First Selectman. The Board of Selectmen shall render a written decision on the appeal within seven days of conclusion of the hearing. The filing of an appeal shall stay collection of any fine imposed until such time as a decision is rendered on the appeal.
- (c) The Board of Selectmen may designate a panel of three persons to serve as an appeal board for any fine or fines appealed from under this Section **9-69**. Any such panel shall follow the schedule in Subsection **(b)** for hearing and deciding appeals.

§ 9-70. Enforcement.

[Ord. of 1-24-00, § 10]

- (a) The Board of Selectmen may choose to enforce the provisions of this ordinance by citation and hearing as permitted by C.G.S., § 7-152(c). The citation hearing procedure will then serve as the appeals procedure in lieu of that set forth in § **9-69**.
- (b) The First Selectman is authorized to institute civil or criminal proceedings as necessary to enforce the provisions of this article.

§ 9-71. Consistency with zoning regulations.

[Ord. of 1-24-00, § 11]

The provisions of this article shall not be interpreted to permit within any zoning district of the Town the establishment of a use which the zoning regulations of the Town do not otherwise permit within that district.

§ 9-72. through § 9-80. (Reserved)

ARTICLE IV. Barbershops, Hairdressing, And Cosmetology Shop

DIVISION 1. Generally

§ 9-81. Definitions.

[Ord. of 2-23-09(2)]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BARBERING

Includes the following described practices when performed by a barber licensed in the state upon the head, face, scalp or neck for cosmetic purposes only:

- (1) The cutting, trimming, or shaving of the hair.
- (2) Singeing, shampooing, dyeing, coloring or styling of the hair.
- (3) The application of cosmetic preparations, hair tonics, antiseptics, powders, oils, clays, creams or lotions.
- (4) Giving facial and scalp massage or the application of oils, creams, lotions, or other preparations, either by hand or mechanical appliances.

BARBERSHOP

Any establishment engaged in the practice of barbering for the public.

DIRECTOR OF HEALTH

The director of health of the Town or his duly authorized representative.

HAIRDRESSING AND COSMETOLOGY

Includes the following described practices performed by a licensed hairdresser/cosmetician in the state upon the head, face, scalp, arms, hands, body, legs and feet for cosmetic purposes only:

- (1) Dressing, arranging, curling, waving, weaving, cutting, singeing, relaxing/straightening, bleaching or coloring hair.
- (2) Treating the scalp, face, neck and arms by massaging, cleansing, exercising, stimulating or manipulating, with the hands, mechanical appliances, or water.
- (3) Applying cosmetics, preparations, antiseptics, tonics, lotions, creams, powders, oils, clays, sprays, or any product pertaining to the skin.
- (4) Manicuring fingernails of the hand and, for cosmetic purposes only, trimming, filing and painting the healthy toenails of the feet, excluding cutting nail beds, corns, calluses, or other medical treatment involving the foot or ankle.

HAIRDRESSING OR COSMETOLOGY SHOP

Any establishment engaged in the practice of hairdressing, cosmetology, or barbering for the public.

MOBILE WORK STATION

A modular space which can be used for multiple purposes through the use of mobile equipment.

NAIL TECHNICIAN

A person who, for compensation, cuts, shapes, polishes or enhances the appearance of the nails of the hands, including, but not limited to, the application and removal of sculptured or artificial nails.

OPERATOR

Any person, including, but not limited to, a licensed hairdresser/cosmetician or barber, or unlicensed person who is performing tasks allowed under the scope of this article and the public health code of the state.

OTHER SERVICES

The following described practices which can be performed by an unlicensed individual under the supervision of a licensed hairdresser/cosmetician in the state:

- (1) Manicuring nails of the hands.
- (2) Performing facials.
- (3) Shampooing of the hair.
- (4) Eyebrow arching.
- (5) Braiding hair.

SHAMPOO STATION

A shampoo station consists of a shampoo bowl (sink) and a shampoo chair.

WORKING AREA

A separate room with more than one work station, or a private room set aside to serve one (1) customer at a time.

WORK STATION

A chair, countertop and floor space set aside for the purpose of serving a customer, including floor space for the operator to stand while serving the customer.

§ 9-82. Plan review and preoperation inspections.

[Ord. of 2-23-09(2)].

- (a) No barbershop, hairdressing and/or cosmetology shop having a permanent location shall be relocated, constructed, remodeled or extensively altered, nor shall a structure be converted to be used as a barbershop or hairdressing and/or cosmetology shop, except in accordance with plans and specifications approved by the Town Health Department.
- (b) Properly prepared architectural plans drawn to a scale of not less than 1/4 inch to one foot, and specification for such construction, remodeling or alteration shall be submitted to the director of health, or authorized agent, for review and approval before relocation, construction, remodeling, alteration, change of ownership, or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement and construction materials or work areas and the type and model of proposed fixed equipment and facilities. The plans and specifications shall be submitted with forms furnished by the director of health. The director of health shall approve the plans and specifications if they meet the requirements of this article and the public health code of the state. Plans shall be submitted to the other Town agencies as required.
- (c) Prior to the barbershops, hairdressing and/or cosmetology shop's opening, the director of health, or authorized agent, shall conduct a preoperational inspection to determine compliance with the approved plans and specifications and with the requirements of this article and the public health code of the state.

§ 9-83. Annual inspections.

[Ord. of 2-23-09(2)]

At least once a year, the director of health, or authorized agent, shall inspect each barbershop, hairdressing and/or cosmetology shop and shall make as many additional inspections as are necessary for the enforcement of this article and the public health code of the state.

§ 9-84. Hearings.

[Ord. of 2-23-09(2)]

The director of health shall conduct the hearings provided for in this article at a time and place designated. The director of health shall summarize the proceedings of such hearings and provide sufficient copies. The director of health shall make a final finding based upon the complete hearing record, and shall sustain, modify or rescind any notice or order considered in the hearing. The director of health shall furnish a written report of the hearing decision to the permit holder within 10 calendar days of the hearing date.

§ 9-85. Service of notices or orders.

[Ord. of 2-23-09(2)]

A notice of order provided for in this article is properly served when it is delivered to the permit holder, or person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A completed and signed inspection report shall constitute a written notice.

§ 9-86. through § 9-100. (Reserved)

DIVISION 2. Permits

§ 9-101. Required; compliance.

[Ord. of 2-23-09(2)]

No person shall maintain or operate any barbershop or hairdressing and/or cosmetology shop without having a valid permit issued by the director of health. Only a person who complies with the requirements of this Code shall be entitled to receive or retain such a permit.

§ 9-102. Fees.

[Ord. of 2-23-09(2)]

A fee of \$100 is payable to the Town prior to the issuance of the permit.

The fees provided for in this article shall be established from time to time by the Board of Selectmen after public notice and public hearing.

§ 9-103. Application.

[Ord. of 2-23-09(2)]

- (a) Forms; validity. Application for a permit shall be made on forms furnished by the director of health, wherein the applicant shall state his name, address, the address of the place of business, give such other pertinent information as the director of health may require and affix his signature to the application. All permits are valid for one year, or a portion thereof, and are renewable each year on or before expiration date. The chief corporation officers shall be designated for service in the event of a corporation.
- (b) Fee. Every application for a permit to operate a barbershop, hairdresser shop or cosmetology shop shall pay a permit fee as determined by § 9-102.

§ 9-104. Validity.

[Ord. of 2-23-09(2)]

Permits shall be valid until the expiration date indicated on the permit unless suspended or revoked by the director of health, or until such time as the facility changes owners, closes, or goes out of business.

§ 9-105. Transferability.

[Ord. of 2-23-09(2)]

Permits shall not be transferable from person to person or from location to location.

§ 9-106. Right-of-entry for inspections.

[Ord. of 2-23-09(2)]

The director of health, or his agent, after proper identification, shall be permitted to enter, during normal operating hours, any portion of any barbershop or hairdressing and/or cosmetology shop for the purpose of making inspections to determine compliance with this article and the Public Health Code of the state.

§ 9-107. Temporary permit.

[Ord. of 2-23-09(2)]

A temporary permit to operate a barbershop or hairdressing/cosmetology shop may be granted for a period not to exceed 14 calendar days. A temporary permit would be required for conducting a public demonstration, a fund-raising event or a public convention.

§ 9-108. Suspension and revocation.

[Ord. of 2-23-09(2)]

- (a) Failure to comply with the provisions of this article and applicable state regulations shall be grounds for revocation or suspension of any permit issued under the provisions of this article.
- (b) In the event that the director of health finds unsanitary conditions in the operation of a barbershop or hairdressing and/or cosmetology shop, or if a violation or set of violations appears on more than one consecutive inspection report, the director of health may immediately issue a written notice to the permit holder, or person in charge, citing such conditions, specifying the corrective action to be taken and the time frame within which such action shall be taken, If correction is not made in the allotted time, the permit may be revoked or suspended.
- (c) The director of health may suspend, without warning, prior notice or hearing, any permit to operate a barbershop or hairdressing and/or cosmetology shop, as follows:
 - (1) If the operation constitutes an imminent hazard to public health; or
 - (2) If the owner, operator or person in charge has interfered with the performance of the director of health's duties.
- (d) An imminent health hazard shall include, but is not limited to, any of the following:
 - (1) An ongoing outbreak of an infectious, pathogenic or toxic agent capable of being transmitted to consumers;
 - (2) The absence of potable water, supplied under pressure, in a quantity which, in the opinion of the director of health, is capable of meeting the needs of the facility;
 - (3) A sewage backup into the facility; or
 - (4) An unlicensed individual performing procedures requiring licensure by the public health code of the state. An individual who does not hold a valid hairdressing/cosmetician license in the state is not allowed to perform pedicures, including polish changes on the feet.
- (e) Suspension shall be effective immediately upon delivery of the written order to the permit holder or person in charge of the facility by the director of health. When a permit is suspended, all cosmetology operation shall cease immediately and shall not resume until written approval to resume has been issued by the director of health. The director of health shall remove a suspended permit from the premises.
- (f) When a permit is suspended, the holder of a permit, or the person in charge, shall be notified in writing of the suspension, and an opportunity for a hearing will be provided if a written request for hearing is filed with the director of health by the holder of the permit within 48 hours. The director of health may end the suspension at any time by giving written notice to the permit holder if reasons for suspension no longer exist.
- (g) Upon receiving a request for a hearing, the director of health shall immediately examine the merits of such suspension and may vacate, modify or affirm such suspension.
- (h) The permit holder who is aggrieved by such action of the director of health may, within 48 hours after the making of such decision, appeal to the commissioner who shall thereupon immediately notify the authority from whose order the appeal was taken and examine the merits of such suspension and may vacate, modify, or affirm such suspension.

§ 9-109. Permit revocation/nonrenewal.

[Ord. of 2-23-09(2)]

- (a) The director of health, after providing opportunity for hearing, may revoke or refuse to renew the permit of any person for serious or repeated violations of any of the provisions of this article, or for interference with the director of health in the performance of official duties or for cases where the permit to operate has been obtained through nondisclosure, misrepresentation or intentional misstatement of a material fact.
- (b) Prior to revocation or nonrenewal, the director of health shall notify the permit holder, or person in charge at the facility, of the specific reason for such revocation or nonrenewal, and that permit shall be revoked or not renewed at the end of 10 calendar days following service of such notice, unless a written request for hearing is filed with the director of health by the holder of the permit within 48 hours of such notice, the revocation or nonrenewal becomes final. The director of health shall remove a revoked permit from the premises.

§ 9-110. Permit reinstatement.

[Ord. of 2-23-09(2)]

- (a) Suspension. Whenever a permit has been suspended, the holder of the suspended permit may make written request for permit reinstatement. Within 10 days following receipt of a written request, including a statement signed by the applicant that, in his opinion, the conditions causing the suspension have been corrected, the director of health shall make a reinspection. If the director of health determines that the applicant has complied with the requirements of this article and the state public health code, the permit shall be reinstated and returned to the permit holder.
- (b) Revocation/nonrenewal. After a period of 60 days from the date of revocation or refusal to renew, a written application may be made for the issuance of a new permit. This application will be treated as a new application. All appropriate procedures and inspections will be required, including a plan review.

§ 9-111. through § 9-120. (Reserved)

DIVISION 3. Specific Standards and Requirements

§ 9-121. Equipment and facilities.

[Ord. of 2-23-09(2)]

- (a) Water supply. An adequate supply of hot and cold running water, at proper temperatures, from a municipal or approved private source shall be provided for service for customers, cleanliness of employees and for washing floor, walls, ceiling and equipment.
- (b) Temperature. Hot water at any faucet shall not exceed 110° F.
- (c) Waste disposal. Wastewater from all plumbing fixtures shall be discharged into municipal sewers, otherwise, suitable facilities shall be installed for the absorption of the wastes by the soil in subsurface sewage disposal systems in accordance with provisions of the public health code of the state and the Town Health Department.
- (d) Plumbing fixtures.
 - (1) Plumbing fixtures shall be of impervious material and of a type which is easily cleanable. They shall be free from cracks and from parts, which are not readily accessible for cleaning. They shall be of a type which does not constitute a hazard to a public water supply through backsiphonage, or cross connection.

- (2) All plumbing installation and fixtures shall conform to applicable building and plumbing codes.
 - (3) Shampoo bowls shall be used for barbering, hairdressing and cosmetology work only.
 - (4) A stainless steel utility sink shall be provided for the proper cleaning of surfaces and equipment.
 - (5) At least one stainless steel handwash facility shall be located in each private treatment room and in each work area in order to provide for proper handwashing before each customer. Those premises in operation prior to January 1, 2004, are exempt from this requirement.
 - (6) A mop sink must be provided for cleaning the facility. Those premises in operation prior to January 1, 2004, are exempt from this requirement.
- (e) Floors. Floors shall be nonporous and of such construction as to be easily cleaned. Floors where tinting or shampooing are done, or where chemicals for bleaching hair are used, shall have hard and washable surfaces. Floors shall be kept clean and in good repair. Carpeting or similar material used for floor covering in nonwork areas shall be of light color with a single loop pile of not more than 1/4 inch in height. Such floor covering shall be kept clean by vacuuming at least daily and shampooing at least once annually and more frequently if the covering is not clean. All floor/wall junctures shall be properly covered with a sanitary type coving.
- (f) Lighting. Lighting fixtures shall be of sufficient number and properly placed so as to provide adequate illumination.
- (g) Ventilation. The shop shall be properly and adequately ventilated so as to remove excess heat and odors. Salon ventilation shall comply with state and local building codes and ordinances.
- (h) Cabinets. Cabinets shall be provided for storage of clean linen, towels, blankets and gowns. They shall have tight-fitting doors that shall be kept closed to protect the linen, towels, blankets and gowns from dust and dirt.
- (i) Receptacle for used towels and gowns. A covered receptacle, which can be readily emptied and cleansed, shall be provided and maintained in a sanitary manner. Chemically soiled towels and linens shall be stored in fire-retardant containers. All receptacles shall be properly labeled.
- (j) Refuse.
- (1) Covered containers for hair droppings, paper and other waste material shall be provided and maintained in a sanitary manner.
 - (2) A plot plan shall be submitted showing location of exterior refuse containers.
- (k) Toilet facilities.
- (1) Adequate toilet facilities and handwash sinks must be provided for customers and employees. Such facilities and washbasins shall be kept clean and in working order.
 - (2) Adequate and conveniently located handwashing facilities shall be provided with hot and cold running water, a sanitary soap dispenser, single-use towels for customers and employees and waste receptacles.
 - (3) The use of common soap for more than one person is prohibited.
 - (4) A covered refuse receptacle shall be provided in the ladies' room.
- (l) Workstations.
- (1) Chairs in workstations shall be at least 54 inches apart, center-to-center. Those premises in operation prior to January 1, 2004, are exempt from this requirement.
 - (2) A two-foot-wide workspace shall be maintained behind each chair for the operator. Those premises in operation prior to January 1, 2004, are exempt from this requirement.

- (3) Three-foot-wide aisles that are separate and discrete from work areas shall be maintained throughout the shop.
 - (4) No hair dryers shall be placed in any waiting room or encroach on the required three-foot-wide aisle space.
 - (5) Mobile stations must be designed to provide the same workspace and separating distances as fixed stations. For a mobile station, it is assumed that the dryer can be accommodated in the workspace designated for the operator.
- (m) Barbershop or hairdressing and/or cosmetology shop in residence.
- (1) A barbershop or hairdressing and/or cosmetology shop located in a residence must be confined to a separate room, separated with ceiling-high partitions and provided with a door to be closed at all times.
 - (2) The area within a home operated as a barbershop or hairdressing and/or cosmetology shop must be equipped with the facilities and instruments required in all such establishments.

§ 9-122. Maintenance and operation.

[Ord. of 2-23-09(2)]

- (a) General cleanliness.
- (1) The permittee of every barbershop or hairdressing and/or cosmetology shop shall keep it in a clean and sanitary condition at all times.
 - (2) No hair droppings shall be allowed to accumulate on floors. Hair droppings shall be removed frequently and as soon as possible, in such a manner as not to cause objectionable conditions.
- (b) Walls, ceilings and fixtures.
- (1) Ceilings shall be kept in good repair, and cracks in walls, especially around baseboards, shall be filled in so as to prevent the harboring and breeding of insects.
 - (2) Cabinets, shelves, furniture, shampoo bowls and fixtures shall be kept clean and free of dust, dirt and hair droppings. Arms, seats and rests of chairs shall be wiped of hair droppings after serving each customer.
- (c) Sanitary services.
- (1) No person affected with any infectious disease shall be attended.
 - (2) A towel shall not be used for more than one person without being properly laundered before each use.
 - (3) A sanitary paper strip or clean towel shall be placed completely around the neck of each customer before an apron or any other protective device is fastened around the neck.
 - (4) Clean towels shall be delivered in a closed container and kept in a clean, closed cabinet or closet. A commercial linen service shall be used for laundering if not done on the premises.
 - (5) A sanitizing agent shall be used when washing towels and linens on the premises.
- (d) Sanitation of equipment and implements.
- (1) Hair brushes, combs and all other implements used on a customer shall be kept clean and sanitary at all times and shall undergo thorough cleansing and sanitizing after serving each customer or single-service disposable implements.
 - (2) Cleaned and sanitized implements shall be stored in sanitary-covered containers which shall contain a disinfectant, or in a clean drawer.

- (3) After handling a customer affected with an eruption or whose skin is broken out or is inflamed or contains pus, the instruments shall be effectively cleaned, washed with soap or a detergent and water, then rinsed with water having a temperature of at least 170° F. or allowed to remain for five minutes in alcohol (70% to 80%) or some other approved disinfectant or sanitizing process.
- (4) Shaker-top containers must be provided for dispensing lotions and powders.
- (5) Single-service towels, papers and other material shall be disposed of in the proper receptacle immediately after use and shall not be used again.
- (6) All disposable materials that come into contact with blood and/or body fluids shall be disposed of in sealable plastic bags prior to placing in the waste receptacle.
- (7) All articles that come into direct contact with the customer's skin, nails, or hair that cannot be effectively cleaned and sanitized shall be disposed of in a covered waste receptacle immediately after use.
Exception: orange sticks, emery boards, buffing squares, cosmetic sponges and disposable nail bits may be kept for the original customer if kept in a covered container labeled with the customer's name.
- (e) Shaving brushes, mugs, finger bowls, and credo blades. The use of shaving brushes, shaving mugs and credo blades is prohibited. The use of finger bowls for manicuring purposes is allowed, but the finger bowl must be properly cleaned and sanitized after each customer. Disposable, single-use finger bowls may be used.
- (f) Alum or other astringents. Alum or other material used to stop the flow of blood shall be applied in powdered or liquid form only.
- (g) Neck dusters, powder puffs, makeup brushes and sponges. The use of brush neck dusters, powder puffs, makeup brushes and sponges is prohibited unless they are single-use disposable implements.
- (h) Foods and beverages. Foods and beverages shall not be prepared, stored or sold in the permitted premises, except with a valid food permit from the Town Health Department. Coffee and tea may be prepared and kept for the convenience of employees and patrons, but no charge is to be made to patrons who are served. Food and non alcoholic beverages may, however, be brought into the permitted premises, from an approved source, for immediate consumption and also may be dispensed by means of automatic vending machines on the premises.
- (i) Animals, pets or live birds. No animals, pets or live birds shall be kept in any barbershop or hairdressing and/or cosmetology shop. This prohibition does not apply to trained guide dogs (or dogs in training) for the disabled, sightless or hearing impaired.

§ 9-123. Hygiene of operators.

[Ord. of 2-23-09(2)]

- (a) Cleanliness of operators. The hands of the operator shall be thoroughly washed with soap and warm water before serving each customer and immediately after using the toilet, or after eating.
- (b) Health of operators. No person known to be affected with any communicable disease in an infectious stage shall engage in barbering, hairdressing or cosmetology, and no person so affected shall be employed as a barber, hairdresser or cosmetician.
- (c) Eating and drinking prohibited. Operators shall not eat or drink while providing services to a customer.

§ 9-124. Smoking prohibited.

[Ord. of 2-23-09(2)]

No operator shall smoke while providing services to a customer.

§ 9-125. Proper attire.

[Ord. of 2-23-09(2)]

Operators shall wear, while attending any customer in a barbershop or hairdressing or cosmetology shop, clean, washable garments having at least one-quarter-length sleeves.

§ 9-126. Recommended sanitizers.

[Ord. of 2-23-09(2)]

- (a) The following chemical methods constitute satisfactory sanitization of implements. No method is considered effective without prior thorough cleaning with detergents (soap, trisodium phosphate, etc.)

Disinfectant	Type of Use	Comments
Quaternary ammonium compounds	1:1000 dilution for 30 seconds	1 of the most recent developments because they are odorless, nontoxic, highly stable and noncorrosive
Boiling water	5 minutes	The addition of 1% sodium carbonate will prevent rusting
Lysol (or compound cresol solution or phenolic compound)	5% solution for 3 minutes 2% solution for 10 minutes	For use on colored gowns or towels
Commercial formalin	10% solution for 1 minute	May be irritating; deteriorates on standing
Alcohol 70% ethyl alcohol or 99% isopropyl alcohol)	3 minutes	
Lubricant sanitizer	Combination	Recommended for electric clippers
Other EPA-registered disinfectants		Use according to the manufacturer's instructions

- (b) Chemicals suitable for low-temperature washing (less than or equal to 158° F.) of towels and linens shall be used. Lysol or household bleach (sodium hypochlorite) shall be used according to manufacturers' specifications. Color-safe bleach may not be used.

- (c) Nonchemical methods of sanitizing must be approved in writing by the director of health. Equipment specifications shall accompany requests for approval.

§ 9-127. Electric clipper sanitizing techniques.

[Ord. of 2-23-09(2)]

The following are recommended sanitizing techniques for electric clippers:

- (1) Detachable head-type (sanitary design):
 - a. Detach blades.
 - b. Clean thoroughly.
 - c. Immerse in effective sanitizer for required time.
- (2) Nondetachable head-type:
 - a. Place covered shallow glass jar at work shelf opposite every barber chair.
 - b. After use, brush out excess hair and grease; wipe cutting blades clean.
 - c. Immerse blade in combination lubricant-sanitizer, run clipper while immersed for 10 seconds.
 - d. Remove clipper and allow blades to drain for 10 minutes on a clean towel or tissue, preferable in a cabinet reserved for tools already sanitized and ready for use. Wipe blades clean with a fresh disposable

tissue.

§ 9-128. through § 9-140. (Reserved)

ARTICLE V. Public Pools

§ 9-141. Registration.

[Ord. of 2-23-09(2)]

No person, firm or corporation shall operate or maintain a public pool, as defined in § 19-13-B33b of the Connecticut Public Health Code, in the Town of Durham without first registering with the local health director. A fee of \$100 shall be paid to the Town at the time of registration. An inspection of the facilities will be conducted annually, as a minimum, by the director of health or authorized agent for compliance with the Connecticut Public Health Code.

The Board of Selectmen may waive fee in Article V for nonprofit organizations upon application of said organization to the Board of Selectmen.

§ 9-142. through § 9-150. (Reserved)

ARTICLE VI. Sale of Food or Beverage

§ 9-151. Registration—Food or beverage dispensing.

[Ord. of 2-23-09(2)]

No food or beverage dispensing establishment as defined in § 19-13-B42 of the Connecticut Public Health Code shall operate within the Town of Durham without first registering with the director of health. A fee shall accompany the registration of the food or beverage dispensing establishment and the fee shall be based on the classification of the establishment. The food or beverage dispensing establishment shall be placed into the highest classification that describes any of the food operations conducted. The criteria for classifications I, II, III and IV is found in § 19-13-B42 of the Connecticut Public Health Code. The fee schedule follows:

Class I	\$100
Class II	\$125
Class III	\$175
Class IV	\$200

§ 9-152. Same—Itinerant food vending.

[Ord. of 2-23-09(2)]

No itinerant food vending establishment as defined in § 19-13-B48 of the Connecticut Public Health Code shall operate within the Town of Durham without first registering with the director of health. A fee of \$50 shall accompany the registration.

§ 9-153. Same—Catering food service.

[Ord. of 2-23-09(2)]

No catering food service establishment as defined in § 19-13-B49 of the Connecticut Public Health Code shall operate within the Town of Durham without first registering with the director of health. A fee shall accompany the registration of the catering food service establishment and the fee shall be based on the classification of the establishment. The catering food service establishment shall be placed into the highest classification that

describes any of the food operations conducted. The criteria for classifications I, II, III and IV is found in § 19-13-B49 of the Connecticut Public Health Code. The fee schedule follows:

Class I	\$100
Class II	\$125
Class III	\$175
Class IV	\$200

The Board of Selectmen may waive fee in Article VI, §§ 9-151, 9-152, and 9-153, for nonprofit organizations upon application of said organization to the Board of Selectmen.

§ 9-154. through § 9-170. (Reserved)

ARTICLE VII. Child Day Care

§ 9-171. Registration.

[Ord. of 2-23-09(2)]

Child day care centers and group day homes as defined in G.S. Ch. 368a, § 19a-77, and licensed by the State of Connecticut's Department of Public Health pursuant to G.S. Ch. 368a, § 19a-80, are required to register annually with the director of health. A fee of \$100 payable to the Town shall accompany the registration.