



TOWN OF FALMOUTH

ORDINANCE NO 121-2017

An Ordinance Amending the Code of Ordinances Regarding Farmers' Markets

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that the Falmouth Code of Ordinances be amended to read as follows:

Sec. 8-153. License required. [Food Service]

It shall be unlawful for any person to operate a food service establishment within the town who does not possess a license granted by the town council and issued by the town clerk. Such license shall be posted in a conspicuous place. Only persons who comply with the requirements of this article as outlined in the Health Department Sanitation Record for Food Service Establishments, a copy of which is on file in the town clerk's office, shall be entitled to receive and retain such a license. Application for such license shall be made to the town clerk upon a form prepared by the town clerk and when submitted to the town council shall bear the recommendations for approval or disapproval of the health officer and such other departments as may be required by the town council or by other codes of the town. Persons are exempt from this license for business conducted as part of a licensed farmers' market under ART. II-8-14

(Code 1966, Ch. 314, § 2.1)

Sec. 8-250. License required, fee. [Victualers License]

- a. Any person wishing to carry on the business of a restaurant, victualer or food establishment within the town shall obtain a license and pay to the town clerk the appropriate fee which is on file in the town clerk's office. Persons are exempt from this license for business conducted as part of a licensed farmers' market under ART. II-8-14.
- b. When a business establishment is located or contained within a single building and is owned by a single legal entity and conducts a business which may require more than one (1) license, such business establishment shall be required to secure only one (1) license and the highest applicable license fee shall apply.
- c. All victualers and food service establishment licenses shall expire annually on June thirtieth after the date of issue.

(Code 1966, Ch. 309, § 1)

ART. II-8-14. FARMERS' MARKETS

Sec. 8-390. Purpose and Applicability

The purpose of this ordinance is to regulate the temporary use of land for the establishment of farmers' markets as defined by 7 M.R.S. §415, where the primary purpose of the market is to make local farm and food products available to the public.

Sec. 8-391. Authority.

This Ordinance is adopted pursuant to the Town's home rule authority pursuant to 30-A M.R.S. § 3001 et seq.

Sec. 8-392. Administration and Enforcement.

This ordinance shall be administered by the Community Development Department and enforced by the Code Enforcement Officer.

Sec. 8-393. Standards and Restrictions.

- A. Areas where permitted. Farmers' markets are permitted by license within the Town in accordance with all standards and restrictions of this article and any other applicable ordinances of the Town and laws of the State. Notwithstanding the provisions of Sec. 14-121 2... farmers' markets may be permitted on town parks and public grounds.
- B. Licensing
 1. Authority. The Town Council may permit by license agreement the use of public or private property for the purpose of operating a farmers' market. Such agreement shall be between the Town and a state licensed non-profit whose primary purpose is to establish and maintain a farmers' market and complies with all applicable state law.
 2. Term. The term of a license shall not extend beyond a 12 month period. Annual renewals may be permitted in the same manner as an initial license agreement.
- C. Permitting Procedure
 1. Application Submittal. Applicants shall submit an application packet in a manner specified by the Town and shall include such fees as established by the Town Council.
 2. Staff Review. The Community Development Department shall circulate the application packet to the Fire, Police, Wastewater and Public Works Departments within 3 business days of the receipt of a complete application. In the case of town property being requested for use, the Parks and Community Programs Department shall be included in the review process. The review departments shall submit comments within 5 business days to the Community Development Department, who shall prepare and submit a recommendation within 5 business days to the Town Manager.

3. Public Hearing. Subsequent to the receipt of the staff recommendation and prior to the issuance of a license agreement, the Town Council shall hold a public hearing as required in Sec. 213. Public Hearing on Ordinances of the Town Charter. In addition to general notice, notice of the public hearing shall be mailed to immediate abutters no later than 7 days prior to the hearing.

D. Products and Services.

1. Permitted. The market shall be comprised of a group of vendors that collectively result in farm and food products as defined under 7 M.R.S. §415 being the primary products offered. The license agreement shall specify the particular number and type of vendors in any given market.

2. Prohibited. Products expressly prohibited are live animals, invasive terrestrial plants, weapons, fireworks, tobacco or tobacco products and marijuana or marijuana products.

Sec. 14-121. Establishment and purpose of rules and regulations.

4. Alcohol/tobacco. Alcoholic beverages and tobacco products are prohibited in park and public land areas, with the exception of the sale of malt liquor, hard apple cider and wine in sealed containers at a licensed farmers' market.

Section 19-1-2 Zoning and Site Plan Review Ordinance

Farmer's Market: Repealed [date]

**Sec. 19-19 West Falmouth Crossing Master Planned Development District (WFCMP) [Adopted 1/26/98]
[Amended 12/22/05; 6/15/09]**

To create a planned development at the West Falmouth Crossing interchange that will be in keeping with the semi-rural character of West Falmouth and surrounding neighborhoods. To permit maximum creativity in site design and to ensure high quality construction with special attention to landscaping, lighting, building orientation and form, coordination of architecture, and signage. To accomplish these goals, the Town Council may approve a Master Development Plan that guides the site plan review process in keeping with general performance standards of the ordinance, but with more flexibility granted to developers and the Planning Board in implementing the approved Master Development Plan. **(Formerly Exit 10 Master Planned Development District)*

| <u>Permitted Structures and Uses</u> | <u>Conditional Uses</u> |
|--|--|
| <p>Accessory buildings and structures Business and professional offices Wholly enclosed places of assembly, amusement, recreation, and government Retail business as part of a mixed use development Research facilities Restaurants (not including carry-out or drive through service) Municipal buildings and uses Tradesman's offices The following additional uses if specifically shown on a Master Development Plan approved by the Town Council:</p> <ol style="list-style-type: none"> 1. Motels and hotels 2. Restaurants with carry out and/or drive through service 3. Movie theaters 4. Service establishments 5. Convenience stores with gas pumps as an accessory use 6. Outdoor recreational facilities 7. Light manufacturing operations with no exterior storage of material, equipment or products 8. Wholesale, warehousing, and distribution facilities 9. Automobile related sales and services <p>Former's Marine (Adopted 7/22/04) Tier I Personal Wireless Service Facilities [Adopted, 4/25/05] Tier II Personal Wireless Service Facilities [Adopted, 4/25/05] Commercial schools as part of a mixed use development [Adopted 5/27/08] Grocery Retail as part of a mixed use development [Adopted 11/26/12](Note: The Town Council may require design specific information for Master Plan approval of items 9.a. through i.) Essential Services** [Adopted, 7/28/2014]</p> | <p>Day care centers Churches Veterinary clinic Public utilities Outdoor eating areas</p> |
| <p>**[Note: establishment of an essential service that includes vehicular access or structures requires site plan approval by the Planning Board.]</p> | |

Sec. 19-23.1 Allowed Uses [Tidewater Master Planned Development District]

The use of land, buildings and structures within the Tidewater Master Planned Development District shall be consistent with the adopted Master Development Plan. The following uses shall be specifically allowed in accordance with the Master Development Plan:

| Tidewater Master Planned Development District | |
|--|---|
| <p>Permitted Structures and Uses</p> <ul style="list-style-type: none"> Accessory buildings and structures Single family detached dwellings Two-family dwellings Multiplexes Apartments on the upper floors of a mixed-use building Business and professional offices Research facilities Wholly enclosed places of assembly, amusement, recreation, and government Outdoor facilities for recreation, entertainment and culture Retail and service establishments and commercial schools [Adopted 5/27/08] Restaurants (not including drive through service) Outdoor eating areas Hotels Municipal buildings and uses Day care centers Churches Health Institutions Libraries Museums Private clubs Farming Animal Husbandry Forestry Riding Stables Farmer's Markets Grocery Retail [Adopted 11/26/12] | <p>Conditional Uses</p> <ul style="list-style-type: none"> Public utilities Light manufacturing operations with no exterior storage of material, equipment or products Home occupations Roadside Stands [Adopted 02/27/12] |

Be it further ordered:

To amend the Land Use Fee schedule to add license fees for Farmers Markets of \$25/vendor for an initial license, and \$10/vendor for a renewal license.

Attest: _____

Ellen Planer
Town Clerk
April 12, 2017