



**TOWN OF FALMOUTH
ORDINANCE NO 15-2019**

**An Ordinance Amending the Code of Ordinances
Regarding Food Services**

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:

ART. II-8-4. FOOD SERVICE

Sec. 8-150. Definitions.

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:

Catering - Providing food and drink at a social event or other gathering lasting one week or less.

Mobile food vendor shall mean a motor vehicle, trailer or like conveyance capable of being transported from place to place which is constructed to contain, store, prepare and properly preserve food for sale and/or distribution.

Permanent food service establishment shall mean any food service establishment located in a permanent structure which has received all requisite approvals as required by this Code of Ordinances.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 8-151. Enforcement.

This article shall be enforced by the code enforcement officer.

Sec. 8-152. Penalty.

Any person violating any of the provisions of this article or obstructing the code enforcement officer in the performance of his required duties or failing, neglecting or refusing to comply with the provisions of this article or operating a food service establishment without a license or after a license shall have been suspended or revoked shall be subject to a fine of not more than one hundred dollars (\$100.00) and each day's violation shall be considered to be a separate offense.

Sec. 8-153. Approval and License required.

Permanent food service establishments and mobile food vendors shall not operate without a license issued by the code enforcement officer. The following application procedures shall apply. Persons are exempt from this license for business conducted as part of a licensed farmers' market under ART. II-8-14.

- A. General.
 - 1. No license shall be issued unless the applicant has presented to the town, has submitted a copy of a current State of Maine Department of Health and Human Services license to the code enforcement officer. No license shall be valid if such state license has expired.
 - 2. The town and state licenses shall be posted in a conspicuous place.
 - 3. No license shall be approved, either new or renewal, without a public hearing by the town council. Such hearing shall be noticed no later than 7 days prior to the hearing date by publication in a local newspaper.
 - 4. Licenses shall be valid for a one year period, commencing July 1 and ending June 30. Any license issued after July 1 shall expire on June 30 of the following year.
- B. Application. A complete application on a form from the Community Development Department shall be submitted with the necessary fee and a completed checklist of submittal items. The code enforcement officer shall have the authority to develop an application form and submittal checklist to assure that the necessary information is submitted.
- C. Renewals. License holders may submit an application for renewal provided that there have been no substantive changes to the location, nature of the operation or any other change as determined by the code enforcement officer. Request for license renewals shall be submitted to the code enforcement officer on or before April 30 of each year. Any renewal request after this date will be considered a new application.
- D. Review. Upon such time as the Code Enforcement Officer or their designee deems the application complete it shall be circulated to the Police, Fire, Public Works, and Community Development for a review. Departments shall submit their review to the code enforcement officer no later than 8 business days from receipt. The code enforcement officer shall forward the review to the applicant. They shall also forward the reviews and application with any recommendations from staff to the Town Manager for placement on the next regularly scheduled Council meeting unless the applicant requests additional time to modify or add to the application based on staff review.
- E. Approval. The town council shall have the sole authority to approve a food service establishment or mobile food vendor license.
- F. Issuance. Should the town council approve such license, the code enforcement officer shall issue a license containing the conditions and restrictions as imposed by the town council.
- G. Posting. The license holder shall post the license in a conspicuous place at the approved location.

Sec. 8-154. Reserved.

Sec. 8-155. Fees.

License fees shall be as approved by the town council and on file in the Community Development Department office.

Sec. 8-156. Suspension and revocation of license.

A food service license may be suspended by the code enforcement officer upon failure of the licensee to comply with any of the terms or conditions of the license. The license may be or revoked by the town council upon serious or repeated violations of any of the terms of this article after investigation and hearing, a notice of such hearing shall be served upon the licensee or left at the licensed premises at least three (3) days before the time set for the hearing.

Sec. 8-157. Reinstatement of license suspended.

The licensee may at any time after suspension by the code enforcement officer, make application in writing for reinstatement of the license to the code enforcement officer representing that the condition for which the suspension was imposed has been corrected. The code enforcement officer shall within three (3) business days after receipt of the application make a reinspection of the premises. If he finds that the licensee is complying with the terms of this article, the license shall be reinstated. If the code enforcement officer finds the condition not corrected according to the requirements of this article, they may make reinspections at such future times as they may deem reasonable. If the licensee fails to satisfactorily comply with the requirements of the code enforcement officer after such inspection or reinspection, the code enforcement officer shall refer the violation to the town council for hearing in the manner provided in Sec. 8-156, who may thereafter revoke, continue the suspension, or reinstate the license. The aggrieved licensee shall have the right to appeal to the Cumberland County Superior Court. Repeated incidents of such suspension by the code enforcement officer involving the same licensee shall be considered to be a valid reason for revocation of the license by the town council after investigation and hearing as provided in Sec. 8-156.

(Code 1966, Ch. 314, §§ 2.5, 2.6)

Sec. 8-158. Inspection.

The health or code enforcement officer, after proper identification, shall be permitted to enter with the permission of the licensee or the person in charge at any reasonable time, any food service establishment within the town for the purpose of making inspections to determine compliance with this article. They shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used and persons employed.

(Code 1966, Ch. 314, § 3)

Sec. 8-159. Standards

- A. Catering. Food service establishments and mobile food vendors providing catering services, either public or private, are exempt from a license under this section, but shall submit license applications required by the state for review by the code enforcement officer. A fee as established by the town council shall be submitted with the state license application. The state license as issued by the State of Maine shall be submitted to the code enforcement officer prior to catering in the town.
- B. Mobile Food Vendor
 1. The following standards shall be iterated in the license approval and by approved by the town council.
 - a. Dates approved for use. The town council shall approve the dates for use but in no event can the dates be longer than six months if the vendor is requesting approval for a static location.

- b. Location(s). Vendors may apply for multiple static locations in the same application and be approved as one license.
 - c. Hours of Operation. Licenses shall include the hours of operation.
2. Vehicles shall be removed from the site daily at the close of business.
 3. Suitability of the site. The location of the vendor shall not interfere with vehicle or pedestrian circulation of permanent uses of the property on which it is located. If parking spaces are utilized to locate vendors, the permanent use must still meet the minimum number of parking spaces required. In the instance of non-conforming uses due to parking, the non-conformity may not be increased.
 4. Self-contained. The vendor unit shall be self-contained except that utilization of electric service from a building may be permitted provided it meets all applicable code requirements. Amenities such as tents, table and chairs are prohibited.
 5. Signage. Signage shall either be on the vehicle or as permitted elsewhere in this Code of Ordinances.
 6. Public Health. No license shall be issued without documentation that the vendor is properly licensed by the State of Maine Department of Health and Human Services.
 7. Vehicle Registration. No license shall be issued or be valid without appropriate state registration of the vehicle or trailer.
- C. Periodic and Permanent Food Service Establishments. Periodic or permanent food service establishments shall be located in buildings or structures that meet the requirements of the Zoning and Site Plan Review Ordinance.

Be it further ordered

That Article II-8-5 VICTUALERS be repealed in its entirety.

Attest: _____

Ellen Planer
Town Clerk
July 23, 2018