

Article I Mobile Food Services

[Adopted 7-10-1984; amended 6-12-2018 by Order 18-091; 8-13-2019; 3-10-2020 by Order 20-072 (Ch. 176, Art. II, of the 1991 Code)]

§ 87-1 Definitions.

As used in this article, the following terms shall have the meanings indicated:

DISQUALIFYING CRIMINAL CONVICTION

Includes any conviction of any criminal offense punishable by imprisonment for more than one year, whether or not the sentence was imposed or served, but shall not include any conviction which is shown to have been set aside on appeal or collaterally or for which a pardon, certificate of rehabilitation or equivalent under the law of the sentencing jurisdiction has been granted.

MOBILE FOOD SERVICE UNIT (hereinafter MFSU)

~~Includes only a~~ A food service establishment which has all utilities and facilities contained within it, other than a power source, which has no fixed, permanent location for the operation or transaction of business, ~~and which is moved from one privately owned location or on property owned by the Town of Windham as may be authorized by the Town to a different location under separate ownership not less frequently than once every 24 hours, in order to serve persons otherwise present at such locations at such time.~~

§ 87-2 License.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

An applicant for an MFSU license shall annually make application to the ~~Windham Town Council, or such other official as the Council may designate~~ Town Clerk. Upon determining compliance with the application and licensing requirements of this article, the Town Clerk may issue a temporary MFSU license entitling the licensee to operate until such time as the temporary license is ratified and converted into a final license by vote of the Town Council. ~~Unless otherwise provided by this article, s~~Said license shall expire on May 31 of each year. ~~Fees will not be prorated.~~ The annual license fee and the background check fee are set by the Town Council.

§ 87-3 Application.

The application shall be on a form provided by the Town Clerk and shall require the applicant to furnish the following information:

- A. The name, address and telephone number of the owner.
- B. The name, address and telephone number of the operator if different from the owner.
- C. Identification of sites where MFSU will operate.
- D. Description of vehicle and its license number.

E. A certificate of insurance as required by § [87-7](#).

F. A photograph of the unit.

G. A certificate of approval issued by the Department of Health and Human Services of the State of Maine.

H. A complete record of the applicant with respect to any disqualifying criminal conviction or statement that no such conviction exists.

I. An appropriate form of statement, over the signature of the applicant, giving all persons and governmental agencies having information relevant to the above items permission to release the same to the Clerk.

J. A description of those items which the applicant proposes to sell and dispense.

§ 87-4 Disqualifying criminal convictions.

A license granted under this article shall be denied or revoked when any applicant or licensee has received a disqualifying criminal conviction at any time either during the five years immediately preceding the application or while a license granted under this article is in effect or when an applicant or licensee has been imprisoned at any time during said periods for a disqualifying criminal conviction, provided that said conviction was for an offense which is rationally related to the purpose of licensing operators of MFSUs.

§ 87-5 Scope.

A licensee under this article shall be authorized to sell and dispense only those items which have been described in the application and which the unit is equipped to dispense pursuant to the rules described by the Department of Health and Human Services, as they may be amended from time to time. No MFSU shall operate within 200 feet of a licensed food service establishment. An MFSU shall operate only on private ways and not within or on any public ways.

§ 87-5.1 Location.

Unless otherwise specified in this article, MFSUs shall only operate on private property or property owned by the Town of Windham with permission from the Town, and in any case may not operate on the same parcel of property for more than 48 consecutive hours without relocating to a different parcel of property.

§ 87-6 Rubbish containers required.

A sufficient number of covered metal rubbish containers shall be provided at each site immediately adjacent to the MFSU to hold material discarded by its customers. In no case shall such containers be more than 10 feet from the unit. A licensee shall keep sidewalks, roadways and other public or private spaces adjoining and adjacent to his locations clean and free from paper and refuse of other kind which may be generated by the operation of his business.

§ 87-7 Insurance required.

The licensee shall provide an insurance policy covering the period of the license and executed by an insurance company authorized to issue such policy in the state in the usual form of automobile liability insurance policies in this state for injuries to persons and property resulting from the use and operation of the vehicle to be licensed. Such policy of insurance shall be issued for the principal sum sufficient to provide indemnity in an amount of not less than the

maximum amount available under the automobile insurance plan, also known as the "assigned risk plan," for bodily injury, death and property damage. A certificate of insurance bearing an endorsement thereon by the issuing agent shall be deposited with the Clerk. Such certificate shall state that the issuing agent will notify the Clerk, in writing, no less than 30 days prior to the cancellation thereof.

§ 87-8 Certificate of approval suspension or revocation.

No license granted under this article shall be effective for any period during which the licensee's certificate of approval, issued by the Department of Health and Human Services, is suspended or revoked.

§ 87-9 Grounds for suspension or revocation.

A license granted under the authority of this article may be suspended or revoked by the Town Council, after notice and hearing, when the Council determines that the licensee has violated any condition of this article, any other applicable ordinance of the Town or of the license granted to him.

§ 87-~~9~~10 Temporary license.

[Added 5-9-2023 by Order No. 23-083]

Any operator of a mobile food service unit that intends to operate at a fixed location for a period of time in conjunction with a temporary event under Chapter [87](#) and does not hold an annual license from the Town under § [87-2](#) shall make application to the Town Clerk for a temporary mobile food service license at least 10 business days in advance of the temporary event, using the application process described in § [87-3](#). Any individual and/or organization operating as a vendor without the required license(s) shall be considered in violation of this article and subject to the penalties herein. The Town Clerk is expressly authorized to issue temporary licenses under this section without the need for ratification from the Town Council. For purposes of this section, no temporary mobile food service license shall be issued for a temporary event of more than two days.

§ 87-11 Seasonal license.

Notwithstanding any other provision of this article to the contrary, the operator of a MFSU that wishes to operate during Windham Food Truck Night, but which does already hold an annual MFSU license under this article, shall make application to the Town Clerk for a seasonal license on or before May 31 of each year, using the application process described in § 87-3. A seasonal license granted under this section shall be valid from June 1 – September 30 of each year. Such seasonal license only entitles the holder to operate at Windham Food Truck Night and does not entitle the operator of the MFSU to operate elsewhere in Windham or at any other time unless and until the operator receives an annual license as prescribed in this article. A seasonal license shall be subject to a licensing fee and background fee as established by order of the Town Council.

ARTICLE III Victualers

[Adopted 12-9-1986; amended 3-10-2020 by Order 20-072 (Ch. 101, Art. II, of the 1991 Code)]

§ 87-28. Title.

This article shall be known as and may be cited as the "~~Ordinance Setting Fees for Victualers-Licenses~~Victualers Licensing Ordinance."

§ 87-29. Licensing authority.

This licensing authority shall be the Windham Town Council or such other official as the Council may designate. The Town Clerk may issue a temporary victualer's license under this article, which entitles the licensee to operate until such time as the temporary license is ratified and converted into a final license by vote of the Town Council.

§ 87-30. Term of license.

The term of a victualer's license shall run from May to May of the following year.

§ 87-31. Fees. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Fees shall be set by the Town Council for the following types of licenses:

- A. Victualer without on-site consumption of liquor.
- B. Victualer with on-site consumption of beer and wine.
- C. Victualer with on-site consumption with liquor.
- D. Nonprofit organization.