

## **FOOD AND BEVERAGE BUSINESS**

### **Chapter 101**

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**(History: Adopted by the Town Council of the Town of Windham: Art. I, at time of adoption of Code; see Ch.1, General Provisions, Art.1, Art. II 12-9-1986; Art. III 2-28-1989; Art. IV 2-28-1989. Amendments noted where applicable.)**

## **GENERAL REFERENCES**

**Amusements – See Ch 56**

**Mobile Food Services – See Ch 176, Art. II**

## **FOOD AND BEVERAGE BUSINESS**

### **ARTICLE I**

#### **Bottle Clubs**

**(Adopted at time of adoption of Code: see Ch I General Provisions, Art. I)**

##### **§101-1. License required.**

No person other than a bona fide nonprofit corporation, shall keep, maintain, operate, lease or otherwise furnish, either to its members and guests or to the general public, any premises for use as a bottle club without first having obtained a license and paying the fee thereof.

##### **§ 101-2. Licensing authority.**

Licenses shall be issued by the municipal officers after notice and hearing on the licensee's application.

##### **§ 101-3. Word usage and definitions.**

- A. Unless otherwise defined herein or in the text, all words used will have their common meanings.
- B. As used in the Article, the following terms shall have the meanings indicated:

**BOTTLE CLUB** An establishment where no alcoholic beverages are sold, but where members or guests provide their own alcoholic beverages paying a fee or other consideration for admission to the bottle club and/or for setups.

**OFFICER** Any officer, director, stockholder, owner, manager or person who either has a financial interest of any nature in a bottle club or directs any policy of a bottle club.

**PERSON** Any individual, person, firm, corporation, association, partnership or organization.

##### **§ 101-4. Fees; expiration of licenses. (Amended 2-28-89)**

- A. Fees for a license for a bottle club shall be paid annually in the amount of one hundred dollars (\$100), plus the cost of advertising.
- B. Such licenses shall expire on December 31.

**§ 101-5. Application for license.**

Every applicant for a bottle club shall.

- A. Complete and file an application on a form prescribed by the Town Clerk.
- B. Deposit the prescribed license fee in advance with the Town Clerk.
- C. Submit the completed application to the Town Clerk, together with attested copies of the articles of incorporation and bylaws if the applicant is a corporation or articles of association and bylaws if the applicant is an association, as well as a list of all officers of the bottle club.
- D. File an affidavit which will identify all officers and their places of residency at the present time and for the immediately preceding three (3) years. Submission of false information in an application for a license shall be a violation of the Article, and such act shall be grounds for the denial of the application.

**§ 101-6. Qualification of officers.**

All officers of a bottle club shall meet the following qualifications: never have been convicted of a Class A, B or C crime nor of violating any of the gambling or prohibitive liquor laws either of the United States or of the State of Maine or any other state within five (5) years immediately preceding the date of the application. Each such officer shall file the release authorized by 16 M.R.S.A. §620 (6) (Criminal History Record Information Act) with the application. Failure to provide such a release shall be a ground for denial of the application.

**§ 101-7. Description of premises.**

Every applicant for a bottle club license shall include in the application a description of the premises for which a license is desired.

**§ 101-8. Articles and bylaws.**

Applicants for bottle club licenses shall possess written articles of incorporation or association and bylaws. The articles or bylaws shall provide for regular election of officers or directors. Membership shall be regulated by articles or bylaws.

**§ 101-9. Investigation of applicant.**

Upon receipt of a completed application and license fee, the Town Clerk shall request other town officials to submit written reports to the municipal officers, indicating whether the applicant is in

compliance with all the applicable codes and ordinances of the town, including the requirements imposed by this article.

**§ 101-10. Notice of hearing.**

After receipt of the written reports required by § 101-9, the Town Clerk shall cause notice of a public hearing on the application to be given to abutters of the premises. Notice of the hearing shall also be published in a newspaper having general circulation in the town. The notices required by this section shall be given at least seven (7) days prior to the date of the hearing.

**§ 101-11. License nontransferable.**

A separate license must be obtained for each branch or separate establishment of a bottle club. Every bottle club shall exhibit its license at all times in a conspicuous place on its premises.

**§ 101-12. Proximity to schools and churches.**

No new bottle club license shall be granted under this Article to premises situated within three hundred (300) feet of a public or private school, school dormitory, church chapel or parish house in existence as such at the time such new license is applied for, except such premises as were in use as bottle clubs on the effective date of this Article. The three hundred-foot distance shall be measured from the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel.

**§ 101-13. Age restriction.**

No person under the age of twenty-one (21) years shall be permitted in or to remain within a bottle club (**Amended 11-10-1987**).

**§ 101-14. Hours of operation.**

The premises used as a bottle club shall be closed and vacated by members and guests each day from 1:00 a.m. to 8:00 a.m., except that on January 1 the premises may remain open until 2:00 a.m. During the hours that a bottle club must remain closed, no members, guests, or other persons, other than regular employees, may be on or remain therein, and the use by anyone of the premises or facilities of the bottle club for the drinking of alcoholic beverages during such hours when a bottle club must remain closed is prohibited.

**§ 101-15. Inspection of premises.**

The applicant or licensee, his agents and employees shall allow access by the Code Enforcement Office, Fire Chief or any law enforcement office for the purposes of inspecting the premises and ensuring that no violation of this Article or any law is taking place.

**§ 101-16. Suspension or revocation of license.**

A license to operate a bottle club may be denied, suspended or revoked by the municipal officers after notice and hearing for either violation of or failure to comply with any of the provisions of this Article.

**§ 101-17. Appeals.**

An appeal from any final decision of the municipal officers shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

**§ 101-18. Violations and penalties.**

In addition to any action which the municipal officers may take, violation of any provision of the Article shall be a civil violation, and a fine not exceeding five hundred dollars (\$500) may be imposed. Each day that a violation continues will be treated as a separate offense.

**ARTICLE II**  
**Victualer License Fees**  
**(Adopted 12-9-1986)**

**§ 101-19. Title.**

This Article shall be known as and may be cited as the “Ordinance Setting Fees for Victualer’s Licenses.”

**§ 101-20. Licensing ~~board~~ authority.**

This licensing ~~board~~ authority shall be the Windham Town Council or such other official as the Council may designate.

**§ 101-21. Term of license.**

The term of a Victualer’s license shall run from May to May of the following year.

**§ 101-22. Fees.**

Fees shall be as follows:

- A. Victualer without on-site consumption of liquor: twenty-five dollars (\$25).
- B. Victualer with on-site consumption of liquor: fifty-five (\$55).

C. Nonprofit organization: one dollar (\$1).

**ARTICLE III**  
**Liquor License Fees**  
**(Adopted 2-28-1989)**

**§ 101-23. Title.**

This Article shall be known as and may be cited as the “Ordinance Setting Fees for Liquor Licenses.”

**§ 101-24. Licensing Board.**

The licensing board shall be the Windham Town Council or such other official as the Council may designate.

Applications for Renewal – The Town Clerk may approve applications for the renewal of liquor licenses on behalf of the Municipal Officers upon the positive recommendation of the Police Department, Fire Department, Code Enforcement and Deputy Tax Collector. The Town Clerk may, for any reason, refer a liquor license renewal application to the Municipal Officers. Should there be any objection to the liquor license renewal application, or should any complaint be filed against the license holder, the renewal application shall be referred to the Municipal Officers for consideration.

**§ 101-25. Term of License.**

The term of a liquor license shall be one (1) year from the date of issuance.

**§ 101-26. Fees.**

A nonrefundable filing fee of ten dollars (\$10), plus the cost of advertising shall be paid to the town at the time of application for an original or renewal liquor license.

**ARTICLE IV**  
**Off-Premises Catering Licenses**  
**(Adopted 2-28-1989)**

**§ 101.27. Title.**

This Article shall be known as and may be cited as the “Ordinance Setting Fees for Off-Premises Catering.”

**§ 101-28. Licensing Authority.**



