

**TOWN OF NORTH YARMOUTH
VICTUALERS' LICENSE ORDINANCE**

SECTION 1. DEFINITIONS

The following definitions shall apply to the interpretation and the enforcement of this Ordinance:

Subsection 1.1 VICTUALER: Shall mean any person operating any “Restaurant”, “Itinerant Restaurant” or “Mobile Vending Unit” as herein defined within the Town of North Yarmouth, (Town).

Subsection 1.2 RESTAURANT: Shall mean any restaurant, coffee shop, cafeteria, short order Café, luncheonette, sandwich stand, soda fountain and all other eating or drinking establishments, including kitchens or all other places, in which food or drink is prepared for sale on the premises or elsewhere, but not including premises operated by the School Department, hospital or charitable organizations who do not operate twelve or more times per year, civic organizations or by business concerns whose prime purpose is serving their employees.

Subsection 1.3 ITINERANT RESTAURANT: Shall mean one operating for a temporary period in connection with a fair, carnival, circus, public exhibition or other similar gathering.

Subsection 1.4 MOBILE VENDING UNIT: Shall mean any vehicle which is used for the sale there from at retail of any prepared food, sandwiches, drinks, ice cream or similar dairy produce, and travels from place to place for the sale thereof, but not including vehicles used for the transportation of milk and dairy products or bread and bakery products for sale or delivery to homes and business establishments.

Subsection 1.5 EMPLOYEE: Shall mean any person who handles food or drink during its preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

Subsection 1.6 UTENSILS: Shall mean any kitchenware, tableware, glassware, cutlery, utensils, containers or other equipment with which food or drink comes in contact during storage, preparation or serving.

Subsection 1.7 HEALTH OFFICER: Shall mean the Health Officer of the Town or his/her authorized representatives.

Subsection 1.8 PERSON: Shall mean any individual, firm corporation or association, but not schools, charitable and civic organizations.

SECTION 2. LICENSING

Subsection 2.1 LICENSE REQUIRED: It shall be unlawful for any person to operate any Restaurant, Itinerant Restaurant or Mobile Vending Unit, in the Town who does not possess a license granted by the Board of Selectmen and issued by the Town Clerk. Such license shall be

posted in a conspicuous place. Only persons who comply with the requirements of the Ordinance shall be entitled to receive and retain such a license. Applications for such license shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk for submission to the Board of Selectmen and shall bear the recommendation of the Fire Chief, Code Enforcement Officer and Health Officer as to its approval or disapproval of the granting of the license.

Subsection 2.2 LICENSE FEES: The fees for such victualer's licenses shall be set by the Municipal Officers to reflect a portion of the administrative cost of processing the license application.

Subsection 2.3 ADDITIONAL REQUIREMENTS: No victualer's license shall be issued to any applicant until:

2.3.1 the required fee is paid in full,

2.3.2 proof has been provided that the facility has a current State license,

2.3.3 except for itinerant restaurants and mobile vending units, proof has been provided of a passing yearly water analysis by a State certified laboratory testing for bacteria, Nitrates and Nitrites

Subsection 2.4 EXPIRATION: All such licenses shall expire on the last day of May.

SECTION 3. SAFETY AND SANITARY REQUIREMENTS

Subsection 3.1 SAFETY & SANITARY REQUIREMENTS: All restaurants and, where applicable, all mobile vending units, must comply with all the Town and State Ordinances, laws and regulations as to the Building, Exit and Plumbing codes and regulations, and all licenses must fully comply with the following items as to safety and sanitation.

3.1.1 All rooms in which food and drink is prepared or in which utensils are washed shall be well lighted and ventilated.

3.1.2 All walls, floors, ceilings shall be kept clean and in good repair.

3.1.3 When flies are prevalent, all openings into the outer air shall be effectively screened and doors shall be self-closing, unless other effective means are provided to prevent the entrance of flies.

3.1.4 There shall be at least one toilet on the premises of all restaurants and where alcoholic beverages are served. When 8 or more persons are employed and present at the establishment at one time there shall be provided at least one toilet for each sex. All toilet rooms shall be kept in clean condition, in good repair, well lighted and ventilated.

3.1.5 All equipment and utensils, including display cases, windows, counters, shelves, tables, refrigerators, stoves, hoods and sinks shall be clean and free from dust, dirt, insects and other contaminating material.

3.1.6 Refrigeration units must maintain a temperature of 41 degrees F or below and must be clean and in good working order. If coolers are used for itinerant transportation and storage of prepared food, they should be supplied with ice and a thermometer if food is not immediately used at the destination. This excludes carrying prepared foods home by the purchaser.

3.1.7 All multi-use utensils used in the preparation or serving of food or drink shall be thoroughly cleaned and subjected to an approved bactericidal process after each usage and shall be stored in a clean, dry place protected from flies, dust and other contamination as far as practical.

3.1.8 All garbage and trash shall be kept in suitable receptacles until properly disposed of

3.1.9 All food and drink shall be clean, wholesome, free from spoilage and so prepared as to be safe for human consumption and shall be stored as to be protected from dust, flies, vermin, rodents and other contamination.

3.1.10 Adequate and convenient hand washing facilities shall be provided including hot and cold water, soap and clean towels where any food is prepared. No employee shall resume work after using the toilet room or after smoke breaks without first washing his/her hands.

3.1.11 All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils or equipment.

3.1.12 The premises shall be kept clean and free from litters and rubbish.

3.1.13 No person who is infected with any disease in a communicable form or is a carrier of such disease shall work in any licensed premises or be employed by any licensee. If the licensee or manager suspects that any employee is infected with any such disease or is a carrier thereof, he/she shall immediately notify the Health Officer.

3.1.14 When suspicion arises as to the possibility of transmission of infection from any such employee the Health Officer is authorized to require any or all of the following:

- (a) The immediate exclusion of the employee from all restaurants.
- (b) The immediate closing of the premises concerned until no further danger of disease outbreak exists, in the opinion of the Health Officer.
- (c) Adequate medical examination of the employee and his/her associates with such laboratory examinations as may be required.

SECTION 4. INSPECTIONS

Subsection 4.1 INSPECTION: At least annually the Health Officer and Fire Chief, or other authorized representative, shall inspect every restaurant located within the Town. In case they discover the violation of any item of safety or sanitation they shall notify the Licensee of same and shall make a second inspection after the lapse of such time as they deem necessary for the defect to be remedied. Any violation of the same item of this Ordinance on such second inspection shall call for an immediate suspension of the license. The person operating the restaurant shall upon the request of the Health Officer, or the Fire Chief, or their authorized representative, permit access to all parts of premises for such inspections and shall permit copying any and all records of food purchased.

SECTION 5. SUSPENSION, REVOCATION & REINSTATEMENT

Subsection 5.1 SUSPENSION & REVOCATION: Such license may be temporarily suspended by the Health Officer or the Fire Chief upon the failure of the licensee to comply with any of the terms of this Ordinance to the detriment of the safety, health and welfare of the public or revoked by the Board of Selectmen upon a serious or repeated violations of the terms of the Ordinance after an investigation and hearing, notice of such hearing being served upon such licenses or left at the licenses premises at least three (3) days before the time set for said hearing.

Subsection 5.2 REINSTATEMENT OF LICENSE:

The licensee may at any time after said suspension make application in writing for reinstatement of said license to the Health Officer or Fire Chief who has suspended said licensee representing that the condition for which the suspension was imposed has been corrected, and said officer shall within three (3) day after the receipt of said application make a re-inspection of said premises. If he/she finds that said licensee is again complying with the terms of this Ordinance, the license shall be reinstated.

Should said officer fail to find the condition corrected to his/her satisfaction, he/she may make re-inspections at such future times as he/she may deem reasonable. In the event said licensee does not satisfactorily comply with the requirements of the officer after such suspension, either party may apply to the Board of Selectmen for a hearing in the manner provided above and the Board of Selectmen shall conduct said hearing and thereafter revoke, indefinitely suspend or reinstate said license. Repeated incidents of such suspensions shall be considered a valid reason for revocation of said license.

SECTION 6. PENALTY & APPLICATION

Subsection 6.1 PENALTY: Any person who violates any provisions of the Ordinance shall be subject to a fine of not more that \$200.00 and each and every violation of the provisions of this Ordinance shall constitute a separate offense.

Subsection 6.2 APPLICATION: This Ordinance shall apply to all facilities located in the Town that qualify. All facilities presently existing in the Town at the time of passage of this Ordinance must apply for a license prior to May 1, 1989. Failure to do so will result in a violation as stated in Section 5 above.

ADOPTED: March 10, 1989

CODIFIED: June 12, 2010

AMENDED: June 18, 2011