

# **Shelburne**

# **Food Truck Ordinance**

**Adopted: May 10, 2016**

## ORDINANCE

THE SELECTBOARD OF THE TOWN OF SHELBURNE HEREBY ORDAINS:

### I: General Provisions

#### A. Purposes

The general purpose of this ordinance is to promote the health, safety, comfort, convenience, prosperity, and general welfare of Shelburne citizens by establishing reasonable guidelines and regulations for Food Trucks and to encourage the safe and convenient use of the Town's public rights-of-way.

#### B. Authority

This civil ordinance is adopted pursuant to the authority conferred by 24 V.S.A. §2291(9) and Section 1.6 of the Town Charter.

#### C. Definitions

Food Truck— A licensed, motorized vehicle or mobile food unit, including a trailer or converted recreational vehicle, equipped to refrigerate and/or cook food where, on a temporary basis, such food items are sold to the general public or to individuals attending a special event. Operation of a Food Truck shall not include temporary seating.

Town Manager – The Town of Shelburne Town Manager, or his or her designee.

Zoning Officer – The Town of Shelburne Zoning Administrator, or his or her designee.

### II: Licensing of Food Trucks

#### A. License Required

It shall be unlawful for any resident or nonresident to operate a Food Truck without first obtaining a license therefore pursuant to this section.

#### B. Application

Operators of Food Trucks shall file an application with the Town Zoning Officer on a form provided by the Zoning Officer. Application shall include a license fee, and shall provide the following information:

- (1) Applicant's name, home and business addresses, and telephone numbers.
- (2) Name, address, and telephone number of employee(s) (no more than three).
- (3) If employed or sponsored, name, address, and telephone number of applicant's employer or sponsor of applicant's Food Truck activities, together with credentials establishing the exact relationship.

- (4) A description of the food items to be sold or otherwise distributed, the manner and locale to be used in offering goods for sale or distribution, and the duration of time desired for the right to operate the Food Truck, including the dates (See Duration/Fee Schedule).
- (5) If a motorized vehicle or trailer registered with the Vermont Department of Motor Vehicles is to be used, a description of same, together with license number, registration number or any other means of identification.
- (6) If a non motorized vehicle or other vehicle, cart, or stand not registered with the Vermont Department of Motor Vehicles is to be used, a statement as to the dimension, construction and appearance of the applicant's vehicle, cart, or stand, and sign, if any.
- (7) If the Food Truck is to be operated on private property, a letter is needed from the property owner consenting to the activity. If the Food Truck is to be operated on any public property other than a public right-of-way, a letter is needed from the Shelburne Town Manager authorizing the peddling activity.
- (8) Identification of any liability insurance policies, with a statement of policy limits, available to cover any injury or damage resulting from the applicant's activities in the Town of Shelburne.
- (9) Copy of restaurant license from State of Vermont.
- (10) Copy of Vermont Health Department inspection.

#### C. Application Review

Application will be granted when it is found that the use of the license will not violate Shelburne's Zoning bylaw and any permit or approval granted thereunder and further will not adversely affect: (1) traffic, (2) the public good, or (3) character of the area. The Town Zoning Officer shall preliminarily review each application for accuracy, completeness, and compliance with the terms of this ordinance. Upon completion of his or her review, the Zoning Officer shall either issue or deny a Food Truck license within fourteen (14) days of their receipt thereof. Said time period may be extended by the Zoning Officer upon written notice to the applicant if unusual circumstances so require. Denial of a license shall be accompanied by a written statement of grounds for such denial. The applicant may appeal denial of a license to the Town of Shelburne Selectboard within fifteen (15) days of the Zoning Officer's decision.

#### D. Service of Process

Prior to the issuance of a license pursuant to this ordinance, the applicant shall file with the Town Clerk an instrument nominating and appointing the Town Clerk his true and lawful agent with full power and authority to acknowledge service of notice or process for and on behalf said applicant in respect to any matters connected with or arising out the business transacted under said license. The instrument filed with the Town Clerk shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon the Town Clerk, and when so made shall be taken and held to be valid as if personally served upon the person or persons applying for the said license under this ordinance, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgement of service or manner of service.

Immediately upon service of process upon the Town Clerk, as hereinabove provided, the Town Clerk shall send to the licensee at his or her last known address, by registered mail, a copy of said process. As a courtesy, the Town Clerk may send a copy by electronic mail to the licensee's last known email address.

### III: License Limitations

#### A. Transfer/Display/Employees

Each license shall authorize the operation of a Food Truck at the particular location specified in the approved application. No license issued pursuant to this ordinance shall be displayed or used by any individual other than the person to whom it is issued or employees specifically designated on said license. The licensee shall display his/her license at all times when operating the Food Truck within the Town of Shelburne. A license may be used by up to six (6) employees or other individuals authorized by the applicant if listed on the applications and noted on the face of the license.

#### B. License Issuance/Duration/Fees

There shall be three types of Food Truck licenses available for issuance under this section, as follows:

- (1) One day License: twenty four (24) hour or less period of time; twenty-five (\$25) dollars
- (2) One week License: seven (7) day or less period of time; one hundred (\$100) dollars.
- (3) One month License: Thirty-one (31) day or less period of time; three hundred (\$300) dollars.

### IV: Food Truck Regulations

#### A. Cause for License Revocation

Breach of any provision of this ordinance shall be cause for license revocation and any other remedy set forth in Section V below.

#### B. Prohibited Locations

No Food Truck shall be allowed to operate in any cemetery or between the curbs (on the traveled portion) of the following roads: Shelburne Road, Falls Road, and Harbor Road. No Food Truck regulated by this ordinance shall be allowed to operate at the Town Beach. Further, no Food Truck regulated by this ordinance shall be allowed to operate in any of the following zoning districts: Conservation District; Rural District; Residential District; and Village Residential District. Operators of Food Trucks who must utilize state and town highways shall operate so as not to interfere with the free flow of traffic.

#### C. Nonexclusive Location

No Food Truck regulated under this Ordinance shall be entitled to any exclusive location.

#### D. Traffic Interference

Operation of a Food Truck shall not be conducted in such a manner as to obstruct or interfere with motor vehicle traffic on the traveled portion of any Town road, nor shall a food Truck operator conduct activity in a location not clearly visible to oncoming traffic. Operation of the Food Truck shall not interfere with pedestrian movement, block sidewalks, or obstruct crosswalks. No Food Truck shall be operated in a manner which obstructs official traffic signs.

## E. Parking

(1) Food trucks must not occupy handicapped parking spaces or any other parking spaces that may be leased to other businesses and uses to fulfill their minimum parking requirements.

(2) All Food Truck operators must provide an adequate amount of parking area for the maximum number of visitors anticipated. Such parking shall be located on the property to be used by the Food Truck or on an adjacent property. If an adjacent property is used, such parking use not conflict with any land use approvals applicable to the property. No parking area shall obstruct or interfere with the free flow of traffic. Vehicles operated by the licensee or employee shall be parked in areas that are not generally used by customers or the general public.

## F. Signs

Food Truck operators shall be limited to the use of only one sign promoting his/her activities which sign cannot be in excess of ten (10) square feet in surface display area nor stand more than four feet above the ground level. For the purpose of this ordinance banners, pennants, flags and other similar items shall be considered signs. No sign shall be affixed to public or private property without obtaining prior approval therefore from the owner of said property. No sign shall be placed in such a manner as to obstruct or interfere with the traffic.

## G. Noise

No Food Truck operator, nor any person on his or her behalf, shall shout, cry out, or use any sound device, including horns, bells, loud speaking radio or sound amplifying systems, from the Town's streets, sidewalks, or other public property in a manner which disturbs the peace or constitutes a public nuisance.

## H. Offensive Practices

No Food Truck operator shall physically accost, restrain or otherwise interfere with the free movement of any individual during the course of operating the Food Truck, nor shall any Food Truck operator engage in misleading, fraudulent or offensive business practices.

## I. Other Standards

A. The following locational standards shall apply to all license holders.

- (1) Food trucks are not allowed on the grounds of any school unless as part of a school authorized function.
- (2) Except when operating in connection with a festival or special event approved by the Office of the Town Manager or the Shelburne Selectboard, no more than two food trucks with a combined total of no more than six employees, where such trucks are regulated under this Ordinance, are allowed on a single property at any given time.
- (3) Food trucks must be located at least 5 feet from the edge of any driveway or public sidewalk, utility boxes and vaults, handicapped ramp, building entrance, exit or emergency access/ exit way. Food trucks must be located a minimum distance of 15 feet in all directions of a fire hydrant.

B. The following non locational standards shall apply to all license holders.

- (1) All signage and waste receptacles and related items shall be removed and stored each night or at the end of the business day. All such items may be stored inside the Food Truck or in a permanent structure or building so that equipment is not visible to the public.
- (2) Food Truck operators may only operate between 7:00 AM and 10:00 PM.
- (3) Food Truck operators shall maintain the Food Truck location in a clean and neat state and are responsible for the appropriate disposal of all trash or garbage generated by their operations or by patrons thereof.
- (4) Food Truck operators may not dump or otherwise dispose of greywater or any wastewater on site. Food Truck operators may not dispose of greywater in Town or privately-owned catch basins or sewer basins.
- (5) Food trucks must not exceed ten (10) feet in width, excluding any side extensions or awnings. Any such side extensions or awnings shall not extend more than four (4) feet from the surface plane to which it is attached. Food trucks parking in public parking spaces must not exceed twenty-four (24) feet in length, including the length of any trailer hitch, trailer, or other extension. If the food truck is parked on private property, the food truck with attached trailer, or other extension must not exceed forty (40) feet in length.
- (6) Food trucks must be self-contained when operating, except for the required trash and/or recycling receptacles which shall be in contact with the food truck, in a safe location and in no event shall impede the free movement of automobiles or pedestrians.
- (7) Food trucks must serve to the sidewalk or green strip next to a sidewalk when parked in spaces parallel to public sidewalks.
- (8) Each food truck vendor must provide the Town of Shelburne with a certificate of insurance to cover public liability in the amount of at least \$500,000 per occurrence.

#### V: Enforcement

##### A. Penalty

Each violation of this ordinance shall be subject to a \$200.00 fine; each day a violation continues shall constitute a separate offense. A Food Truck operating without a license is subject to the same penalty.

##### B. License Revocation

Upon notice and opportunity for hearing, a Food Truck license may be revoked or suspended by the Town Manager, or his or her designee, without reimbursement of any fee for:

- (1) Misrepresentations on an application;
- (2) Conviction of a federal or state law violation or Town ordinance.
- (3) Violation of the provisions of this ordinance or other Town of Shelburne Regulations.

##### C. Enforcement

This ordinance may be enforced by the Town Manager, Town Zoning Officer, or any Town Police Officer. Any violation of this ordinance may be enforceable by injunction or other action available at law. In issuing a summons, the enforcing officer may enforce this Ordinance in the Vermont Judicial Bureau and may be the appearing officer at any hearing. Should the enforcing officer seek further relief, including injunctive relief, the enforcing officer may bring an action in the name of the Town of

Shelburne in the Vermont Superior Court, Civil Division, Chittenden Unit to compel compliance with this Ordinance.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 *et seq.*

#### VI: Exemptions

##### A. Short Duration Fixed Location Operation of a Food Truck

The following activities shall be exempt from the provisions of this ordinance.

- 1) Lemonade, Ice Tea, and similar cold drink outdoor tables or stands located on private property and operated fewer than seven (7) days per month and where the total volume of unbottled beverages sold per month is less than twenty (20) gallons gross.
- 2) Sidewalk Bake Sales and similar outdoor tables or stands located on commercial property and operated fewer than seven (7) days per month and where activities do not encroach on any public sidewalk or right of way.
- 3) Catering of private events such as private parties and wedding receptions with the support of a Food Truck, where such events are a one-time occurrence and do not take place as one event in a series of events at which access by the members of the public is generally assumed.
- 4) Catering of municipal events with the support of a Food Truck, where such events are conducted on municipal property and are organized by and carried out under the direction of one or more municipal department.

#### VII: Applicability and Severability

##### A. Applicability

This Ordinance controls only those activities treated and does not supersede any state or federal law or consistent local regulation.

##### B. Severability

Any part or provision of this ordinance shall be considered severable and the invalidity of any part or section shall not be held to invalidate any other part or provision of this ordinance.

#### VIII: Effective Date

This ordinance shall take effect from passage.