

Adopted December 18, 2017

Town of Fairfax

Civil Ordinance

**AN ORDINANCE TO LICENSE AND REGULATE  
MOBILE VENDORS**

Pursuant to the provisions of Title 24, Vermont Statutes Annotated, Sections 1971 and 2291, it is hereby ordained by the Select Board of the Town of Fairfax that the following "An Ordinance to License and Regulate Mobile Vendors" is adopted for the Town of Fairfax, Vermont.

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**Section 1 – Authority**

This ordinance is enacted pursuant to the authority granted to the Town of Fairfax to promote the public health, safety, welfare and convenience, and for the betterment of the community, as contained in Title 24 VSA 2291. This ordinance shall be a civil ordinance within the meaning of Title 24 VSA Chapter 59.

**Section 2 – Title**

An Ordinance to License and Regulate Mobile Vendors

**Section 3 – Purpose**

The purpose of this ordinance is to create a permit requirement and related provisions for vendors within the Town of Fairfax, and procedures for the procurement of such permit.

**Section 4 – Definitions**

**Vendor:** For the purpose of this ordinance the term "Vendor" shall include persons, principles, agents, corporations or other business entities who engage in a temporary or transient business in the Town of Fairfax whether in one locality or in traveling from place to place selling food or merchandise from any vehicle, cart, stand or other assemblage of materials which is not permanently attached to a water supply source. All other uses are regulated under the Town's Development Regulations.

**Street Vending Unit** (food truck or concession trailer) – A mobile food vendor business in which food that is prepared and made ready for consumption at the point of sale is sold from or out of a motor vehicle that does not exceed eight feet in width and twenty-five feet in length and that is removed each day from the location where the food is sold.

TOWN CLERK'S OFFICE  
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Of Fairfax Land Records  
ATTEST: Deborah Woodward, Town Clerk  
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**Sidewalk Vending Unit (Pushcart)-** A mobile food vendor business in which food that prepared elsewhere are ready for consumption at the point of sale is sold from or out of a non-motorized mobile piece of equipment or vehicle that is removed each day from the location where the food is sold.

**Section 5 – Requirements for Mobile Vendors within the Town of Fairfax**

Prior to the issuance of any license under this ordinance, the Select Board shall determine that the proposed Mobile Vendor satisfies the following requirements:

- A. Vendors may only operate on private property with written permission from the property owners.
- B. Must have sales and use tax registration number from the Department of Revenue.
- C. Vendors shall not broadcast music or loud advertisements.
- D. One sandwich board style sign permitted during operation, otherwise the only signage allowed will be affixed to the mobile vending unit identifying the vendors and menu/price information. The sandwich board can be placed where public can easily view but shall not impede vehicle sight lines and must be located outside of public right-of way.
- E. Vendor must display the Town of Fairfax issued permit in a prominent location on the unit.
- F. Only one vendor may locate on any parcel at one time, unless vendors are participating in a special event separately permitted with the Town.
- G. Vendors must provide for adequate waste collection from their customers and remove waste from the site daily without using public waste receptacles.
- H. Vendors must operate in a safe, sanitary, and non-offensive manner.
- I. It is the responsibility of the Vendor to insure obtainment of all State and Federal Permits that may be required.
- J. The proposed Mobile Vendor is in conformance with any applicable Town ordinances including the Town of Fairfax Development Regulations.
- K. The proposed Mobile Vendor will not have an undue adverse effect upon traffic congestion or create unsafe conditions regarding the use of public roads.
- L. The proposed Mobile Vendor will not present or create a threat to the safety of persons or property because of fire, explosion or other hazard.
- M. The proposed Mobile Vendor will not create unhealthy conditions regarding water supply, sewage disposal or solid waste disposal.
- N. The proposed Mobile Vendor will not interfere with the use of neighboring property for its customary use by the creation of noise, dust, noxious odors, lighting or other activities which, extend beyond the boundary of the activity.
- O. The proposed Mobile Vendor will not overburden the public infrastructure of the Town. Special attention shall be given to the cumulative impacts of other activities which may be occurring at the same time.
- P. The proposed Mobile Vendor will not have an adverse effect on public health, safety, welfare and convenience of the inhabitants of the Town.



*Adopted December 18, 2017***Section 6 – Application for License**

An application for a license under the provisions of this Ordinance shall be filed with the Select Board at least twenty-one (21) days before the date the permit is needed for.

Such application shall include:

- (a) Name of Mobile Vendor
- (b) Description, Make, model, and license plate number of vending unit
- (c) Owner's contact information
- (d) Operator's contact information
- (e) Food Vendors must have and present with application a current license from the Vermont Department of Health.
- (f) List of operating hours
- (g) Signatures from property owner(s) indicating consent for the use of their property
- (h) Signature indicating agreement to the listed requirements
- (i) Current VT state sales and use tax number
- (j) The name of the owner and operator.
- (k) A parking plan(s).

**Section 7 – Approval Conditions**

When issuing a license under this ordinance, the Select Board may attach such reasonable conditions as they may deem appropriate to mitigate or eliminate any impacts reviewable under the Approval Standards set forth above. Such conditions may include but are not limited to:

- a) establishing specific hours for the proposed Mobile Vendor;
- b) requiring the provision of traffic control personnel at no cost to the Town;
- c) requiring that trash and litter on public streets attributable to the proposed activity be collected and removed at no cost to the Town.

**Section 8 – License Fee**

Fees will be listed on the application form and must be paid at the time of the application. The Town Board reserves the right to amend the fee amount for Mobile Vendors License. The annual year will be from July 1<sup>st</sup> to June 30<sup>th</sup>.

**Section 9 – Exemption**

- a) Activities conducted by schools licensed by the State Department of Education and/or churches, on school or church grounds, are exempt from the requirement to obtain a license and pay a permit fee.
- b) Activities conducted by the Town.

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**Section 10 – Enforcement**

Any person who violates a provision of this civil ordinance shall be subject to a civil penalty of up to \$350 per day or each day that such violation continues. The Zoning Administrator, Town Manager or a Selectboard Member of the Town of Fairfax shall be authorized to act as Issuing Municipal Officials to issue and pursue complaints before the Judicial Bureau, pursuant to title 24 VSA Chapter 59. If the penalty for all continuing civil ordinance violations is greater than \$800.00, or injunctive relief, other than as provided by the Judicial Bureau, is sought, the action shall be brought in the Criminal Division of the Superior Court.

**Section 11 – Waiver Fee**

An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee, except as provided in Section 12 below.

First offense.....	\$25
Second offense .....	\$50
Third offense .....	\$75
Fourth offense .....	\$100
Fifth offense and subsequent offenses.....	\$125

Offenses shall be counted on a twelve month basis, dating from the earliest offense during any twelve-month period.

**Section 12 – Civil Penalties**

In any contested case, an issuing Municipal Official is authorized to recover civil penalties on the following amounts for each violation:

First offense.....	\$50
Second offense .....	\$125
Third offense .....	\$200
Fourth offense .....	\$275
Fifth offense and subsequent offenses.....	\$350

Offenses shall be counted on a twelve month basis, dating from the earliest offense during any twelve-month period.

**Section 13 – Other Relief**

In addition to the enforcement procedures available before the Judicial Bureau, the Town Clerk is authorized to commence a civil action to obtain injunctive and other appropriate relief, to request revocation of a license by the Select Board or to pursue any other remedy authorized by law.

**Section 14 – Severability**

The provisions of this ordinance are declared to be severable, and if any provision hereof be adjudged invalid, such judgment shall not affect the validity of any other provision.

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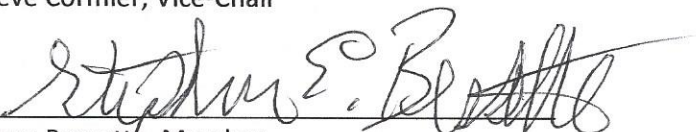
**Section 15 – Publication/Posting/Implementation**

Publication/Posting/Implementation:

A public hearing shall be held December 18, 2017.

The Ordinance shall be published in the St. Albans Messenger on December 21, 2017.

This Ordinance shall become effective on February 16, 2018.

**This Ordinance is adopted by the Select Board of the Town of Fairfax at its Adopted At Fairfax, Vermont this 18<sup>th</sup> day of December 2017, and to be effective upon adoption.**  
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Tom Fontaine, Chair  
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Steve Cormier, Vice-Chair  
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Steve Bessette, Member  
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Randy Devine, Member\_\_\_\_\_  
Duane Leach, Member