

# **TOWN OF KENNEBUNKPORT VICTUALER'S LICENSING ORDINANCE**

## **Section I Purpose, Authority, License Required, Definitions**

- A. **Purpose; Authority** – The purpose of this Ordinance is to ensure that establishments serving food or drink within the Town of Kennebunkport (hereafter, the “Town”) and intended for consumption by the public prepare their food and drink in a safe and sanitary environment. This Ordinance is adopted pursuant to the authority granted by 30-A M.R.S.A. § 3812 *et seq.*, 30-A M.R.S.A. § 3001, and the Home Rule provisions of the Constitution of the State of Maine.
- B. **License Required** – Any establishment that serves food or drink prepared for consumption by the public within the Town shall be required to annually apply for and be granted a victualer's license. A license shall be specific to the premises and entity which is requesting the license.
- C. **Definitions** – Unless otherwise defined herein or in the text, all words used in this Ordinance shall have their common meanings. As used in this Ordinance, the following terms shall have the meanings indicated:

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

**VICTUALER** – Any person who serves food or drink prepared for consumption on the premises by the public.

**TOWN** – The Town of Kennebunkport.

## **Section 2 Licensing Board and Meetings**

- A. **Licensing Board** – The Licensing Board shall be the Town of Kennebunkport Board of Selectmen.
- B. **Meetings** – The Licensing Board shall meet as provided in this subsection:
  - 1. It shall meet annually during the month of May on a date, time and place determined by the Board of Selectmen.
  - 2. At least seven (7) days before the meeting, the Licensing Board must post notices stating the purpose of the meeting in at least two (2) public places in the Town.

3. The Licensing Board may meet at any other time at a meeting specially called and with public notice as provided in Section 2.B.(2) above.

### **Section 3 License Issuance, Renewal, Suspension and Revocation**

- A. **Issuance, Renewal, Suspension and Revocation of Licenses** - At any meeting held under Section 2.B. above, the Licensing Board may do the following:

1. **License** - The Licensing Board may license as many persons of good moral character to be innkeepers, victualers and tavern keepers in the Town as it considers necessary, in accordance with the requirements set forth herein.
  - a) In determining whether to issue or deny an application, the Licensing Board shall consider (i) whether the applicant has failed any part of a state inspection or local health inspection; (ii) whether the applicant has failed to provide sufficient evidence of compliance with applicable local, state or federal laws and regulations; (iii) whether the applicant is of good moral character, considering the applicant's criminal record, if any, and all evidence presented; (iv) the applicant's failure to pay an outstanding fine, penalty or tax owed to the Town; and (v) the Town's need for additional innkeepers, victualer's and tavern keepers.
  - b) The Licensing Board may issue the license under any conditions or restrictions that it deems necessary and reasonably designed to promote the health, safety or welfare of the public.
  - c) The premises must be inspected by the Code Enforcement Officer and Fire Inspector for compliance with local ordinances and state statutes, prior to the issuance of the license. Such inspections shall be noticed to the Licensing Board.
  - d) The license must specify the building in which the business will be conducted.
  - e) The license must specify an issue date and an expiration date.

2. **Renewal** – Renewal applications from persons having obtained a victualer's license under Section 3.A.(1) above, along with applicable fees, must be submitted to the Town Clerk on or before April 30<sup>th</sup> of each year. The Licensing Board shall annually review all renewal applications for the purpose of determining the status of the victualer's prior conformance and likelihood of continued conformance with the requirements of this Ordinance, including the requirements of Section 3.A.(1)(a) above and any conditions or restrictions of the license, and at such time shall make a decision to either approve or deny the renewal application.
3. **Suspension** – A victualer's license may be suspended by the Licensing Board for any period of time that it considers proper after investigation, notice and hearing if the Licensing Board determines that the licensee has violated any codes, ordinances, conditions or restrictions imposed by the Licensing Board. The Licensing Board shall serve written notice of a hearing on suspension on the licensee or leave it at the licensed premises at least three (3) days before the time set for hearing. At the hearing, the licensee must be given an opportunity to hear the evidence in support of the charge against the licensee, to be heard in the licensee's own defense and to cross-examine, alone or through counsel, any witnesses.
4. **Revocation** - A victualer's license may be revoked by the Licensing Board after investigation, notice and hearing if the Licensing Board determines that the licensee is unfit to hold a license. The Licensing Board shall serve written notice of a hearing on revocation on the licensee or leave it at the licensed premises at least three (3) days before the time set for hearing. At the hearing, the licensee must be given an opportunity to hear the evidence in support of the charge against the licensee, to be heard in the licensee's own defense and to cross-examine, alone or through counsel, any witnesses.

## **Section 4 Term of License**

The term of a victualer's license shall run from June 1 to May 31 of the following year.

## **Section 5 Fees**

The Licensing Board shall set fees by order for the following categories of victualer's licenses:

- A. Victualer without on-site consumption of liquor.
- B. Victualer with on-site consumption of liquor.
- C. Nonprofit Organization.
- D. Failure to obtain a license, either renewal or a new license, may subject the licensee to additional late filing fees, publication of notice expenses, and/or penalties pursuant to Section 6, below, as may be determined by the Licensing Board.

## **Section 6 Violations**

Any violation of this Ordinance, including but not limited to failure to submit an annual renewal application by the deadline provided, shall be punishable by a fine of not less than \$100 for the first offense and not less than \$200 for the second and subsequent offense. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

## **Section 7 Appeals**

An appeal from any final decision of the Licensing Board may be taken by any aggrieved party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Adopted March 24, 1998. Amended March 21, 2000. Amended November 6, 2018.