

TOWN OF WEST TISBURY

RULES AND REGULATIONS REGARDING
MOBILE FOOD VENDORS AND THE
OPERATION OF FOOD TRUCKS

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SECTION 1: AUTHORITY

1.1 The Town of West Tisbury (the Town), through the Select Board (the Board), which serves as the Permitting Board, regulates the retail sale of food or beverage by Mobile Food Vendors and from Food Trucks (mobile food vendors; see Section 2 herein) pursuant to M.G.L. Chapter 101, as follows.

SECTION 2: PROTOCOL FOR ISSUING A FOOD TRUCK PERMIT

Protocol for issuing a Food Truck Permit

The Board, pursuant to Chapter 101 of the Massachusetts General Laws governing so-called Hawkers, Peddlers and Transient Vendors, has the authority to regulate the retail sale of food or beverage from Food Trucks in the Town. In addition, Food Truck Vendors (Mobile Food Vendors) are required to obtain a food service permit, pursuant to 105 CMR 590.000 State Sanitary Code – Minimum Sanitation Standards for Food Establishment and the Town Board of Health's relevant regulations. For these purposes, a Mobile Food Vendor is defined as any person who travels from place to place and dispenses food from a Food Truck. A Food Truck is defined as a readily movable trailer, cart or motorized wheeled vehicle, currently registered with the Massachusetts Registry of Motor Vehicles, designed and equipped to cook, or prepare or serve food, and shall include any food truck, food cart, canteen truck, catering truck, breakfast truck, lunch truck, lunch wagon, or any other mobile food vehicle.

2.1 These regulations do not apply to mobile food vendors who, and food trucks which, operate in the Town's Business District or at the Agricultural Fair. The regulations also do not apply to anyone that has received a special permit from the Zoning Board of Appeals. However, such vendors are required to obtain the necessary permit or permits from any other Town officials, boards, or commissions under the Town's zoning by-law, general by-laws, or other applicable state or local laws and regulations.

2.2 Before granting an annual permit to a Mobile Vendor to operate a Food Truck, the Board must determine whether issuing the permit is required by the public good. In making this determination, the Board will consider the following:

- Traffic and Pedestrian Safety Issues,
- Impact on Nearby Parking, Residences and Businesses,
- Health Department Inspections and Issuance of Related Permits (Board of Health Sign Off/Approval is Required),
- Noise, odors or other disruptions to the surrounding neighborhood,
- Fire Safety (Fire Department and Gas Inspector Sign Offs/Approvals are required),
- Zoning Compliance (ZBA Special Permit and/or Planning Board Special Permit

may be required),

- Hawkers and Peddlers Permit must be obtained through the Massachusetts Division of Standards,
- The number of Food Trucks operating within the Town ,
- Previous issues with compliance or performance of the Food Truck vendor(s), and
- Any other public safety issues, as determined by the Select Board, Fire or Police Chief.

2.3 These regulations are intended to supplement, and not usurp, existing state law and regulations. Should these regulations conflict with state law or regulations, state law/regulation shall control. At their discretion, the Board may at any time cap the number of Food Truck Permits issued.

2.4 Private Property Locations:

A Food Truck permit may be issued to a Mobile Vendor, with any attached conditions, limitation or restriction required by the Board, for exercise in any zoning districts. Food Trucks hired for private events on private property do not require a permit and are exempt from these regulations for the duration of the private event, which shall not exceed 24 hours. At these events food may not be sold to individuals attending the event. No property may have more than 2 private events with a Food Truck per calendar year, without a permit from the Board.

2.5 Each application for use and operation of a Food Truck shall be considered on a case-by-case basis under these regulations.

2.6 Food Truck Permits shall only be permitted as an adjunct service to an event or activity, not as a free-standing food establishment.

2.7 Prior to filing for Town permits, approvals or license, applicants are strongly encouraged to request a pre-permit application conference with the Board to review the proposed Food Truck and location. The conference would provide the applicant an opportunity to identify a timeline; other required permits or approvals; respond to questions and concerns; and to provide information in preparation for filing a formal application.

SECTION 3: APPLICATION REQUIREMENTS AND PROCEDURES

3.1 Any person wishing to apply for a Food Truck Permit shall fully complete the application form supplied by the Board's office. An application will not be processed until all required information and supporting documents have been received. The application fee shall be One Hundred Dollars (\$100.00).

In addition, Food Truck vendors are required to obtain a food service permit, pursuant to 105 CMR 590.00 State Sanitary Code – Minimum Sanitation Standards for Food Establishments, from the Board of Health. Permittees shall receive approval of a written sanitation plan for the maintenance of the Food Truck from the Health Agent prior to receiving a food service permit. This shall include, but not be limited to, the identification of a certified kitchen facility for cleaning, sanitation and food preparation.

3.2 Upon receipt of the completed application and application fee, the application shall be scheduled for a hearing before the Board at a regularly scheduled meeting.. For any permits requesting authority to provide services at events running for four days or more, a public hearing will be required. The public hearing will be held after the applicant posts a notice in the local newspaper at least 14 days in advance of the hearing date, All abutters within 300 feet must be notified by mail, sent to the address listed with the Town’s Assessors fourteen days before the scheduled hearing. It is applicant’s responsibility to comply with and pay for the required posting in the newspaper, mailing notices to the abutters, and to provide proof of compliance to the Town Administrator three business days before the scheduled hearing.

A Food Truck Permit is only applicable to the specific event applied for. New events will require a new hearing.

3.4 Amending a Food Truck Permit

Permittees who want to amend their current Food Truck Permit shall make such a request in writing to the Town Administrator, who has been granted authority to amend existing Food Truck permits by the Board. Upon review by the Town Administrator or his/her designee, a decision will be rendered within 14 days. If the amendment is determined to require to be heard by the Board , then the request will be posted on the next available Select Board agenda.

SECTION 4: OPERATING RULES FOR PERMITTEES

4.1 Permittees may only operate at specifically approved locations (hereafter, the “permitted area”) and at specifically approved times (operation hours). Applicants shall provide written evidence with their application of the property owner’s approval for use of the permitted area. The lease for a use of private space that is set to expire before the permit expiration date shall not be accepted by the Board.

4.2 Permittees shall comply with all Zoning, Board of Health rules and regulations, and any other applicable state or local regulations or by-laws.,

4.3 Permittees shall not deploy any free-standing signs or flags unless specifically

permitted by the Board. Any flags must comply with the applicable provisions of the Zoning Bylaw. Applicability of the Zoning Bylaw shall be determined by the Town's Zoning Enforcement Officer.

4.4 Permittees shall not deploy tables or seating unless specifically permitted by the Board, with permission from Health Agent.

4.5 Food Trucks shall not be positioned so as to expose clients to vehicular traffic, or otherwise in an unsafe manner. Any directive by the Police Department or other Board designee shall be immediately followed.

4.6 Permittees shall make specific provisions for potable water, electricity, electric lighting if operated at night, collection and proper removal of recyclables, trash and wastewater. No waste or water may be disposed of on site. A wastewater disposal plan shall be submitted to the Board of Health.

4.7 Permittees shall ensure that the permitted area is kept clean, neat and sanitary at all times. Reliance on the use of municipal trash receptacles is not permissible. Upon request, proof of proper trash and wastewater disposal shall be submitted to the Health Agent and the Board.

4.8 Operations are permitted between 8:00 AM to 9:00 PM, unless otherwise specified by the Board. The Board reserves the right to set a maximum number of operational hours.

4.9 Permittees are required to obtain a Hawkers and Peddlers or Transient Vendor's permit, as applicable, for each manager/owner from the Commonwealth of Massachusetts. Such permit must be signed by the West Tisbury Police Department. The state permit must be current for the duration of the locally permitted and permitted operation. If at any time the state permit is revoked, suspended and/or not active, then the local permit shall be void.

4.10 Permittees shall not be authorized to sell non-food novelty items such as: t-shirts, hats, toys, etc., except that the Board may approve the sale of marketing merchandise directly related to the business, with the exception of in the Village and RU Districts.

4.11 Permittees shall not be authorized to sell or provide any alcoholic beverages.

4.12 Adequate parking facilities for customers and employees shall be available.

4.13 Food and beverage supply loading operations are not permitted.

4.14 Maintenance and exterior washing of the Food Truck on the approved location is not permitted.

SECTION 5: PENALTIES

5.1 Any violation of these regulations will be subject to a penalty of \$300.00, In addition, any violation may result in the immediate suspension of the permit and/or removal of the Food Truck and/or other vehicle from the permitted area at the permit holder's expense to protect the public health, safety or welfare.

5.2 Each day a violation exists shall constitute a separate offence. A permittee may appeal any penalty to the Board. Appeal period not to exceed 10 (ten) business days since first offence was registered by the Board or its designee.

5.3 After a 3rd offence, the permit shall be reviewed by the Board at a public meeting. The Board may suspend, revoke or modify a Food Truck permit if, after a public hearing, the Board finds that these regulations have been violated.

SECTION 6: ENFORCEMENT

6.1 These regulations shall be enforced by the Board through the West Tisbury Police Department, Building Inspector or other Board designee. The Board, after due notice and opportunity for a hearing, shall have the right to levy administrative fines, or revoke the Food Truck permit, according to the current regulations, of any Mobile Food Vendor that violates any provision of these regulations and to the extent permitted by law.

SECTION 7: APPLICATION INSTRUCTIONS

7.1 Fill-out and sign application form provided by the Board's office.

7.2 Attach supporting documents including but not limited to the following:

- Detailed list of intended locations for operations, including a sketch for each location showing how the mobile food vehicle is to be positioned,
- List of proposed times for operations for each proposed location,
- Signoffs/Approvals from Board of Health, Fire Department, Building Department, Gas Inspector and Police Department,
- ZBA and/or Planning Board Special Permit if applicable,
- Hawkers and Peddlers Permit for each owner of a Food Truck from the Commonwealth of Massachusetts, signed by the West Tisbury Police Department,
- Copy of the Motor Vehicle Registration, if applicable, verifying the vehicle is

- registered-the Commonwealth of Massachusetts,
- Filled-out and Signed Workmen's Compensation Affidavit,
- Application fee of One Hundred Dollars \$100.00,
- For private location, written evidence of property owner's approval for use of that location,
- Certificate of Liability Insurance, and
- Proof from the Massachusetts Department of Revenue that the Applicant has an account for meals tax.

7.3 After the application materials are received and reviewed for completeness the applicant will be required to appear before the Board for a hearing. Staff will notify the applicant of the date and time of the hearing at least 48 hours in advance of the meeting.

7.4 The Board reserves the right to defer action on an application until all issues and concerns raised by the Board are addressed by the applicant to the Board's satisfaction: and the Board also reserves the right to deny approval if the applicant fails to meet the application requirements or does not/cannot resolve the issues and concerns raised by the Board.

7.5 The Board may only approve the application once the applicant has obtained all required Health Department, Building Department, Police Department, Fire Department and Gas Inspector's final approvals. If the applicant fails to obtain a required approval at any point in the process, the issuance of the Permit will be withheld until the issue or problem is resolved to the satisfaction of the appropriate body.

7.6 The Board shall have the right to attach any condition, restriction or limitation to the permit as may be appropriate.

SECTION 8: SEVERABILITY, EFFECTIVE DATE & ADOPTION

8.1 If any provision of these regulations or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of these regulations shall remain valid and effective. Any part of these regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately.

8.2 The effective date of these regulations is July 21, 2022

8.3 The date of adoption of these regulations by the Board was July 20, 2022 following a public hearing.

Application Instructions

1. Fill-out and sign the application form and attachments. Applications shall expire on December 31st.
2. Include a detailed list of the intended locations for operation, including a sketch for each location showing how the mobile food vehicle is to be positioned. For each location also provide the proposed times of operation.
3. Obtain all applicable initial plan reviews and/or preliminary approvals from the Building, Health, Fire Rescue and Police Departments, and obtain Hawkers and Peddlers Permits for each owner of a Food Truck from the Commonwealth of Massachusetts before application is submitted to the Town Administrator's office.
4. Deliver the completed and signed application form and attachments (e.g., list of intended locations for operation, tax certification, resumes, copies of Hawkers and Peddlers permits, etc.), along with a payment for the local fixed fee for the permit. The local fee for a Food Truck Permit is \$100.00.
5. For private locations, the Permittee shall provide written evidence of the property owner's approval for use of that location. The permit does not confer a right to operate without the written permission of the property owner.
6. The Select Board may require the applicant(s) and their employee(s) to process a Personal Criminal Record Information (CORI) check and Sex Offender Registry Information (SORI) check through the Police Department.
7. After the application materials are received and reviewed for completeness, the applicant will then be required to appear before the Select Board for a hearing. Staff in the Selectmen's Office will notify the applicant by telephone or e-mail of the date and time of the public hearing at least 48 hours before the hearing.
8. The Select Board reserves the right to defer action on the permit application until all issues and concerns raised by the Board are addressed by the applicant to the Board's satisfaction; and the Board also reserves the right to deny approval if the

applicant fails to meet the application requirements, or does not/cannot resolve the issues and concerns raised by the Board.

9. The Select Board shall only approve the application once the applicant has obtained all required Health Department, Building Department, Police Department and Fire Rescue Department final approvals (i.e., permits, reviews and/or inspections) before the Food Truck Permit will be issued. If the applicant fails to obtain a required approval at any point in the process, the issuance of the Permit will be withheld until the issue or problem is resolved to the satisfaction of the appropriate body.

Specific questions should be addressed to:

Select Board Office, Town Administrator, 508-696-0102
Building Department, Building Inspector, 508-696-0113
Health Department, Health Agent, 508-696-0105
Fire Department, Chief, 508- 560-6356
Police Department, Chief of Police, 508-696-0200

Date Applied:

Date Approved:

Date Issued:

Fee \$100.00

The undersigned hereby applies for a Food Truck Permit in accordance with the provisions of Town of West Tisbury Select Board Regulations.

(PLEASE TYPE OR PRINT CLEARLY)

Name of Applicant:

Date:

D.O.B:

Drivers. Permit Number:

Fed.ID #:

Mass Division of Motor Vehicles Lic Number:

Business Address:

Home Address:

Business Telephone:

Cell Phone:

Name of Operation:

Plan Review and/or Preliminary Approval (Required for Approval)

Reviewing Department	Signature of Approving Authority	Date of Plan Review/Approval
Building Department:		
Health Department:		
Police Department		
Fire Department:		

PROVIDE THE FOLLOWING INFORMATION WITH RESPECT TO EACH LOCATION:

What will be the hours of operation? Time(s) of

Peak Customer Activity

Est. Number of Customers at Peak Time(s):

Est. Number of Employees at Peak Time(s):

What provisions have been made for trash, wastewater, potable water, electric and recycling?

LIST THE LOCATIONS WHERE THE MOBILE FOOD VEHICLE WILL BE DEPLOYED AND ATTACH A SKETCH OF HOW THE VEHICLE WILL BE POSITIONED AND OTHER DETAILS OF THE AREA TO BE PERMITTED.

(Please provide a sketch for each location on a separate piece of paper.)

Location(s)

I the undersigned state that the information provided in this application, and associated attachments, is true and accurate to the best of my knowledge:

Signature:

Printed Name:

Date:

Note: No Food Truck Permit will be approved until the applicant addresses all issues and/or concerns to the satisfaction of the Select Board; and no Food Truck Permit will be issued until all required inspections have been conducted, permits granted, and final approvals given.

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FOR OFFICE USE ONLY

Final Permits/Approvals Granted (Required Before Permit will be Issued)

Approving Department	Yes	No	If "No," Reason Why	Date of Final Approval
Building Department:				
Health Department:				
Police Department:				
Fire Department:				