

For June Rossi

DRAFT

**PTOWN OF WEST
~~PTOWN~~
TISBURY**

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

Table of Contents

(to be finalized once document is complete)

SECTION 1: AUTHORITY	3
SECTION 2: PROTOCOL FOR ISSUING A FOOD TRUCK LICENSE	3
SECTION 3: APPLICATION REQUIREMENTS AND PROCEDURES	4
SECTION 4: OPERATING RULES FOR LICENSEES	5
SECTION 5: PENALTIES	6
SECTION 6: ENFORCEMENT	6
SECTION 7: APPLICATION INSTRUCTIONS	6
SECTION 8: SEVERABILITY, EFFECTIVE DATE & ADOPTION	7

Permit

Permits

SECTION 1: AUTHORITY

1.1 The Town of West Tisbury, through the Select Board (the Board) and serving as the Licensing 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.

SECTION 2: PROTOCOL FOR ISSUING A FOOD TRUCK LICENSE

Permit.

Protocol for issuing a Food Truck License

The Town of West Tisbury, through the Board of Selectmen (the Board) and serving as the Licensing Board, regulates the retail sale of food or beverage from Food Trucks pursuant to Chapter 101 of the Massachusetts General Laws that governs so-called Hawkers, Peddlers and Transient Vendors. 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 relevant regulations. For these purposes, a Mobile Food Vendor is defined as any person who travels from place to place upon public ways and dispenses food from a Food Truck. A Food Truck shall be defined as a readily movable trailer, cart or motorized wheeled vehicle, currently registered with the Mass Division 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 and food trucks which operate in the Town of West Tisbury in the Business District or at the Agricultural Fair. However, such vendors are required to obtain the necessary license and permits from applicable Town officials.

Mobile Food Vendor shall be defined as any person who travels from place to place upon public ways or parked on public or private property and dispenses food from a Food Truck. Food Truck shall be defined as a readily movable trailer, cart or motorized wheeled vehicle, currently registered with the Massachusetts Registry of Motor Vehicles (if applicable), 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.

2.2 Before granting an annual license to a Mobile Vendor to operate a Food Truck, the Board must determine if the public good requires it. 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

Change Massachusetts Permit license to Permits

permitting

prep. of food for cooking or prepared to serve

who,

which,

who is

which is

which is

for the day

owner or service of

Permit

DRAFT

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* might be required),
- Hawkers and Peddlers License *must be* obtained through the Massachusetts Division of Standards,
- The number of Food Trucks operating within the Town of West Tisbury,
- 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 regulation. Should these regulations conflict with state law or regulation, State law/regulation will control. At their discretion the Select Board may at any time cap the number of Food Truck *License* issued.

2.4 Private Property Locations:

A Food Truck license 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 *license* 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 *license* from the Select Board.

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

2.6 Food Truck Licenses shall only be permitted as an *accessory* adjunct to an event or activity, *they are not to allow use of the unit* 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-*license* application conference with the Select Board to review the proposed Food Truck and location. The conference would provide the applicant an opportunity to identify timeline, required permits, approvals and licenses and concerns, information and questions in preparation for filing a formal application.

SECTION 3: APPLICATION REQUIREMENTS AND PROCEDURES

3.1 Any person wishing to apply for a Food Truck *License* shall fully complete

DRAFT

the application form supplied by the Select Board's office. An application will not be processed until all required information and supporting documents have been received. The yearly application fee shall be One Hundred Dollars (\$100.00); the yearly license fee shall be One ~~Thousand~~ Hundred Dollars (\$1,00.00). The yearly fee shall be reviewed annually.

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. Licensees 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 license. This shall include but not be limited to the identification of a certified kitchen facility for cleaning, sanitation and food preparation.

inspection of the permit as a

as well as

3.2 Upon receipt of the completed application and application fee, the application shall be scheduled for a hearing before the Select Board. A formal public hearing will be required for all events that will run for more than ~~four~~ *three* days. The public hearing will be held after posting in the local newspaper at least 14 days in advance of the meeting ~~and all abutters within 300 feet~~ *are to be* notified by mail. The applicant will be required to post the advertisement in the paper and send the notices and provide proof of same to the Town Administrator.

XXXX

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

3.4 Amending a Food Truck ~~License~~ *permit*

Licensees who want to amend their current Food Truck ~~License~~ *permit* shall make such a request in writing to the Town Administrator who has been granted authority to amend existing ~~Food Truck licenses~~ *permits* by the Board of Selectmen. 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 of Selectmen, then the request will be posted on the next available Board of Selectmen agenda.

permits

SECTION 4: OPERATING RULES FOR LICENSEES

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

4.2 ~~Licensees~~ *Permittees* shall comply with all Zoning & Board of Health rules and regulations.

Permittees

DRAFT

4.3 ~~L~~icensees shall not deploy any free-standing signs or flags unless specifically permitted by the Select Board and in compliance with the Zoning Bylaw. Applicability of Zoning Bylaw shall be determined by the Town's Zoning Enforcement Officer.

4.4 ~~L~~icensees shall not deploy tables or seating unless specifically permitted by the Select Board with permission from Health Agent.

4.5 ~~F~~ood 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 Select Board designee shall be immediately ~~complied with~~ *not fulfilled*.

4.6 ~~L~~icensees 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 will be disposed of on site. A wastewater disposal plan shall be submitted to the Board of Health.

4.7 ~~L~~icensees shall ensure that the ~~licensed area~~ *space* is kept clean, neat and sanitary at all times. *written* 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 Select Board.

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

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

4.10 ~~L~~icensee shall not be authorized to sell non-food novelty items such as: t-shirts, hats, toys, etc., except that the Select Board may approve the sale of marketing merchandise directly related to the business with the exception of the Village and RU Districts *Just NO*

4.11 ~~L~~icensee 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.

DRAFT

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 license and/or removal of the Food Truck and/or other vehicle from the licensed area at the license holder's expense to protect the public health, safety or welfare.

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

5.3 After a 3rd offence the violation shall be reviewed by the Select Board at a public meeting scheduled in accordance with Open Meeting Law requirements. The Select Board may suspend, revoke or modify a Food Truck license 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 West Tisbury Select Board through the West Tisbury Police Department, Building Inspector or other Select 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 license, 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 Select 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 License for each owner of a Food Truck from the Commonwealth of Massachusetts, signed by the West Tisbury Police Department,

1st offense
2nd 500
3rd 1000
Permit
Permitted

Permit

Permit

DRAFT

- Copy of the Motor Vehicle Registration, if applicable, verifying the vehicle is registered in the Commonwealth of Massachusetts,
- Filled-out and Signed Workmen's Compensation Affidavit
- Application fee of One Hundred Dollars \$100.00.
- For private location, ~~written~~ ^{written} evidence of property owner's approval for use of that location,
- Certificate of Liability Insurance, and ~~and~~ ^{running down as additional insured}
- 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 Select 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 Select 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 application fails to meet the application requirements or does not/ cannot resolve the issues and concerns raised by the Board.

7.5 The Select 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 License will be withheld until the issue or problem is resolved to the satisfaction of the appropriate body.

7.6 The Select Board shall have the right to attach any condition, restriction or limitation to the license 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 XXX

8.3 The date of adoption of these regulations by the Select Board was XXX following