

## ARTICLE XV. - MOBILE FOOD VENDORS

### Sec. 8-361. - Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Council* means the City Council for the City of Somerville.

*Mobile food vendor* means any mobile operation that stores, prepares, packages, serves, sells, or otherwise provides for human consumption any prepared or packaged food or beverages from a truck or cart, including ice cream and non-ice cream food and beverage products.

*Mobile food vendor license* refers to the license to sell food issued under the authority of article XV of the City of Somerville's Code of Ordinances, and refers collectively to both a) ice cream truck vendor permits and b) food vendor licenses that are issued to businesses operating from a truck or cart.

*Mobile food vendor licensee* means the holder of a mobile food vendor license.

The *City of Somerville* means the health division of the inspectional services department, economic development, police department, traffic and parking, city clerk, and fire department.

(Ord. No. 2012-08, 10-25-2012)

### Sec. 8-362. - Mobile food vendor license required.

No person or business entity, including a religious or charitable organization, shall operate as a mobile food vendor in any public, private or restricted space without obtaining a license from the health division of the inspectional services department. Said license shall be conspicuously posted in a place that is visible to all customers. This provision shall not apply to mobile food operations that receive a temporary event permit from the board of health.

(Ord. No. 2012-08, 10-25-2012)

### Sec. 8-363. - Application for a mobile food vendor license.

The applicant must complete an application form prescribed by the city clerk. The fee for such permit shall be set in accordance with Chapter 40, Section 22F of the General Laws. The operator of the vehicle must provide a valid state hawker's license issued by the Commonwealth of Massachusetts and any applicable local board of health license before a mobile food vendor license will be issued by the City of Somerville. In the event a state hawker's license and/or an applicable board of health license is revoked and/or does not otherwise remain in effect, the mobile food vendor license shall automatically become void. If a state hawker's license and/or applicable board of health license is revoked and/or does not otherwise remain in effect, the licensee shall notify the city clerk that such license has been revoked and/or does not otherwise remain in effect. Failure to notify the city clerk within ten days that such license has been revoked shall constitute a violation of this article.

(Ord. No. 2012-08, 10-25-2012)

Sec. 8-364. - Renewal.

Every mobile food vendor license may be renewed annually upon payment of a renewal fee, provided that the mobile food licensee is in compliance with applicable requirements of this article. The fee for such renewal permit shall be set in accordance with Chapter 40, Section 22F of the General Laws. The renewal of a license does not guarantee renewal of previously approved route or location.

(Ord. No. 2012-08, 10-25-2012)

Sec. 8-365. - Criteria for issuance of license.

In considering a mobile food vendor's application for a mobile food license, the health division of the inspectional services department, economic development, police department, traffic and parking, city clerk, and fire department shall consider the public good and general welfare and convenience of the community, and shall take into account factors such as the sort of operation proposed (including the proposed menu, days and hours of operation, and location), any impact on the community with respect to such matters as noise, traffic, congestion, odors, sanitary and waste disposal facilities, parking, dust and fumes, the impact of the character of the neighborhood and city, and whether any articulable harm would follow from granting the license. Also, the city shall consider whether a public benefit would flow from the proposed location and use, and any competitive or other impact on existing restaurants.

(Ord. No. 2012-08, 10-25-2012)

Sec. 8-366. - Conditions of operation.

- (a) The issuance of a mobile food vendor license does not grant to, or entitle, the licensee the exclusive use of any service route or location, in whole or in part, other than the time and place specified in the license or permit for the term of the license or permit.
- (b) Mobile food vendors are encouraged to provide consumers with compostable single-service articles, such as compostable forks, and paper plates, and a waste and recycling container for their disposal. No styrofoam products are permitted. Mobile food vendors are encouraged to use energy efficient resources. All mobile food vendors shall offer a waste container for public use that operators shall empty at their own expense. All mobile food vendors shall inspect adjacent streets, sidewalks and alleys within 100 feet regularly for purposes of removing any litter found.
- (c) Unless otherwise provided, no mobile food vendor licensee may operate outside of the hours indicated in its approved application.
- (d) The mobile food licensee shall comply with all applicable local rules, ordinances, and regulations, including but not limited to the board of health regulations, traffic and parking regulations, and noise ordinance.
- (e) Mobile food vendors are encouraged to offer at least 25 percent healthy choice meal options as defined by the health and human services department, except that menus providing only desserts/sweets or confectionary items are encouraged to offer at least one healthy option at all times of operation.

- (f) No materials of any kind may be placed on the public sidewalk, unless otherwise approved by the Council. This includes, but is not limited to, tables, chairs, or other seating, A-frame signs, coolers, or promotional materials.
- (g) The licensee shall not park within 50 feet of an entrance of a restaurant unless the licensee has received written consent from the owner(s) of any restaurant(s) within fifty (50) feet of the proposed location of a food truck.
- (h) No exceptions to the location, hours, or number of food trucks may be granted except upon prior notice to and written approval of the health division of the inspectional services department, traffic and parking, and economic development divisions.

(Ord. No. 2012-08, 10-25-2012)

#### Sec. 8-367. - Transfers.

- (a) *Transfers for value prohibited.* A license issued under this article shall be personal to the applicant. No mobile food vendor licensee may transfer a mobile food vendor license, nor shall they sell, lend, lease or in any manner transfer a license for value. A transfer by merger, acquisition, or consolidation, or operation of law is prohibited.
- (b) *Unauthorized transfers.* Any unauthorized transfers or attempt to transfer a license shall automatically void such permit. Whoever violates this provision shall be subject to a fine pursuant to section 1-11.

(Ord. No. 2012-08, 10-25-2012)

#### Sec. 8-368. - Enforcement.

- (a) *Fine for violation.* Any mobile food vendor licensee operating in violation of any provision within this section or any other rules and regulations promulgated by the City of Somerville may be subject to a fine in accordance with subsection 1-11(b) of this article. Each day of violation shall constitute a separate and distinct offense under General Laws c. 40, section 21D.
- (b) *Revocation, suspension, modification.* The City of Somerville may modify a mobile food vendor license, including an approved location, (i) at any time before the issuance of a mobile food vendor license, (ii) if after the issuance of such license, for cause, after reasonable notice to the licensee of the grounds for the proposed modification and the time and place of the hearing regarding such proposed modification. The health division of the inspectional services department may suspend, revoke, or decline to renew a mobile food vendor license for cause, after reasonable notice to the licensee of the grounds for the proposed action and the time and place of the hearing regarding such proposed action.
- (c) *Enforcement.* The provisions of this section or any rules and regulations promulgated by the City of Somerville may be enforced by the police department, traffic and parking or inspectional services .

(Ord. No. 2012-08, 10-25-2012)

#### Sec. 8-369. - Additional conditions and restrictions.

The terms of every mobile food vendor license issued pursuant to this section shall be subject to such further restrictions and conditions as the City of Somerville shall impose.

(Ord. No. 2012-08, 10-25-2012)

Sec. 8-370. - Applicability of mobile food truck vendor provisions.

This article shall not apply to a food truck vendor who lawfully operated under a hawker and peddler license at the time of the enactment of the mobile food vendor ordinance.

(Ord. No. 2013-06, 6-26-2013)

Sec. 8-371 – Appeals

The City of Somerville Hearing Officer shall review vendor violation appeals and establish rules and regulations as appropriate.