



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

October 24, 2012

Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02145

Re: Order No. 192528
Mobile Food Vendor Ordinance

Dear Honorable Board Members:

Enclosed for your consideration is Mobile Food Vendor Ordinance. The Ordinance reflects changes made in Legislative Matters Committee on Tuesday, October 23, 2012.

Please feel free to contact me if you have any questions.

Very truly yours,

David Shapiro
Assistant City Solicitor

CITY OF SOMERVILLE
ORDINANCE NO. 2012-_____
IN THE BOARD OF ALDERMEN: _____

Be it ordained by the Board of Aldermen, in session assembled, that the Code of Ordinances of the City of Somerville Chapter 8 Licenses, Permits and Miscellaneous Business Regulations, Section 4 Hawkers and Peddlers is hereby amended to read as follows (additions are underlined and deletions are ~~crossed-out~~):

Sec. 8-76. Hawkers and peddlers.

As used in this article, the term "hawker" or "peddler" shall mean and include any person who goes from place to place either on foot or on or from any animal or any vehicle carrying, exhibiting or selling any goods, wares or merchandise. Mobile Food Vendors shall be exempt from this section and shall instead be subject to ARTICLE XIV of this ordinance.

Chapter 8, Licenses, Permits and Miscellaneous Business Regulations, is hereby amended by adding the following section:

Article XIV: MOBILE FOOD VENDORS

8-304. Definitions

- a. "Board" means the Board of Alderman for the City of Somerville.
- b. "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
- c. "Mobile Food Vendor License" refers to the license to sell food issued under the authority of Article XIV 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.
- d. "Mobile Food Vendor Licensee" means the holder of a mobile food vendor license.

8-305. 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 Board of Aldermen. 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.

8-306. 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 (10) days that such license has been revoked shall constitute a violation of this ordinance.

8-307. Public Hearing

In no case shall a license required under this section be granted until after a public hearing is given to all persons interested therein. At least fourteen (14) days before the public hearing, notice of the application for such license shall be published in one or more newspapers in the City, and placed on the City website and Cable Wheel. The costs of any advertising shall be paid by the applicant at the time of application. These costs are in addition to the filing fee described in Section 8-306.

8-308. 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 ordinance. 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.

8-309. Criteria for Issuance of License

In considering a mobile food vendor's application for a mobile food license, the Board 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 Board shall consider whether a public benefit would flow from proposed location and use, and the competitive or other impact on existing restaurants.

8-310. 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 adjacent streets, sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found.
- c. Unless otherwise provided, no mobile food vendor licensee may operate between the hours of 9:00 p.m and 8:00 a.m.
- 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 twenty-five (25) percent healthy choice meal options as defined by the Somerville Health Department, except that menus providing only desserts/sweets or confectionary items are encouraged to offer at least one (1) healthy option at all times of operation.

8-311. Transfers.

- a. *Transfers for value prohibited.* A license issued under this ordinance 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.

8-312. 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 Board may be subject to a fine in accordance with Section 1-11(b) of this Ordinance. Each day of violation shall constitute a separate and distinct offense under General Laws c. 40, section 21D.

- b. *Revocation, Suspension, Modification.* The Board 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, or iii) by request of the licensee, subject to Board approval. The Board 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 Board may be enforced by the Police Department and Inspectional Services Division.

8-313. 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 Board of Aldermen shall impose.

Be it further ordained by the Board of Aldermen, that Section 1-11(b) of the Code of Ordinances is hereby amended by adding the following:

Offense	Fine	Enforcing Personnel
Mobile Food Vendors	1 st offense: \$100 2 nd offense: \$200 3 rd and subsequent offense: \$300	Inspectional Services Division, Police Department

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