



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

June 1, 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 Wednesday, May 30, 2012.

I have included a copy of the Guide to Mobile Food Licenses and Application for Mobile Food Vendor License which will be available in the office of the City Clerk.

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 ~~erossed-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. 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.

8-307. Public Hearing

In no case shall a license required under this section be granted until after a notice of the application for such license has been published in one or more newspapers in the City and a public hearing given to all persons interested therein. The costs of such 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 shall 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 plastic 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.* 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.
- 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 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

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- 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. This provision shall not apply to mobile food operations that receive a temporary event permit from the Board of Health. on a one-day basis or for special events (for which separate approval is required), including charitable and non-profit fundraisers.

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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.

8-307. Public Hearing

In no case shall a license required under this section be granted until after a notice of the application for such license has been published in one or more newspapers in the City and a public hearing given to all persons interested therein. The costs of such 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.

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8-3087. Renewal

Every mobile food vendor license shall 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.

8-3098. 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), ~~to to cleanliness and proper sanitation, and qualifications of the applicant, whether the truck or cart is equipped with the necessary implements and facilities for cooking, preparing and furnishing the proposed menu to the public, and 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.~~ Standards for Issuance of License

* ~~characteristics of location~~

- * ~~product mix~~
- * ~~public interest~~

8-3109. 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 c~~Consumers shall be provided~~ with compostable single service articles, such as plastic forks, and paper plates, and a waste and ~~container~~ recycling container for their disposal. No styrofoam products are permitted. Mobile food vendors are encouraged to use energy efficient resources. All mobile food ~~vendor trucks~~ 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 sahll 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~~8:00 p.m or sunset, ~~whichever is later,~~ and ~~8:00~~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 ~~Exceptions will be allowed for menus providing only desserts/sweets or confectionary items, who~~ are encouraged to shall offer at least one (1) healthy option at all times of operation.

8-3110. Transfers.

- a. *Transfers for value prohibited.* 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.
- 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 ~~1-118-309(a)~~.

8-3121. 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 ~~en~~ a separate and distinct offense under ~~M~~General Laws ~~g~~ 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 ~~Inspectional Services~~Services ~~Division, or Police.~~

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.

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in the City of Somerville

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

Mass. Hawkers and Peddlers License Number (Attach a copy) _____

Date of Issuance _____

Detailed description of the food to vend (attach sample menu) _____

Detailed description of the unit to be used _____

Detailed description of the location(s) to vend _____

Detailed description of the dates/days and hours of operation _____

Detailed description of any municipal events (parades, block parties, etc.) to be attended (include dates and hours of operation) _____

ACKNOWLEDGEMENT

I hereby state that all information provided on this application is true and accurate, and I understand that any information that is found to be false or misleading will result in the forfeiture of this license, and that I will be required to wait one year before submitting a new application, and that I may be subject to criminal prosecution pursuant to MGL c101. I also understand that any violation of the City's rules and regulations pertaining to Mobile Food Vendors could subject me to arrest, fine, and/or loss of this license.

Signature of Applicant _____ Date _____

RELEASE AND INDEMNITY AGREEMENT

I, the undersigned Applicant, hereby agree to release, discharge and hold harmless, the City of Somerville, a municipal corporation of the Commonwealth of Massachusetts, and its officers, employees, agents and servants from all actions, causes of action, claims, demands, damages, costs, loss of services, expenses and compensation associated with the undersigned's conduct under this license as described herein.

Signature of Applicant _____ Date _____

DEPARTMENTAL APPROVALS

INSPECTIONAL SERVICES/HEALTH DIVISION (Required for ALL Mobile Food Vendors).

I have inspected the cart, vehicle or display to be used by this Mobile Food Vendor and have found that it conforms to all laws set by the State and City with regard to health codes and the food code.

License # _____ Date _____

Conditions _____

Signature _____ Print Name _____

TRAFFIC AND PARKING DEPARTMENT (Required for ALL Mobile Food Vendors).

I have inspected the unit location to be used by this Mobile Food Vendor and have found that it conforms to all laws set by the State and City with regard to the traffic and parking code.

License # _____ Date _____

Conditions _____

Signature _____ Print Name _____

FIRE PREVENTION BUREAU (Required only for the use of propane or other flammables.)

I have inspected the cart, vehicle or display to be used by this Mobile Food Vendor and have found that it conforms to all laws set by the State and City with regard to fire codes.

License # _____ Date _____

Conditions _____

Signature _____ Print Name _____

OTHER CONDITIONS

1. A current Certificate of Insurance listing the City of Somerville as an Additional Insured on the business liability insurance in a form satisfactory to the City shall be provided before the City Clerk will issue the license.
2. This license is required to operate anywhere within Somerville city limits, but it does not by itself give permission to operate in areas not under the City's control, including private property and certain streets and areas owned by the state. The City may require evidence that the Applicant has permission to operate in these areas before it issues this license.
3. The following streets and areas are owned by the state, and may require state approval to operate, in addition to this license:

Alewife Brook Parkway	Fellsway	McGrath Highway
Blessing of the Bay	Fellsway West	Mystic River shoreline
Boathouse	Foss Park	Mystic Valley Parkway
Draw 7 Park	Lombardi Way	

4. Operation at public events legally permitted by the City is prohibited unless explicitly requested and authorized by this license.
5. The Applicant shall not vend to the disturbance of the peace and comfort of the inhabitants of the City at any time.
6. The Applicant shall set out a trash and recycling receptacle for the use of the public while at a vending site. Said receptacles, and all papers, containers, garbage or other litter shall be removed by the Applicant. The Applicant shall inspected regularly, for purposes of removing any litter found adjacent streets, sidewalks and alleys, within one hundred (100) feet of vending location.
7. The Applicant's unit shall have plainly printed on each side thereof the name of the Applicant, and shall be kept in a neat and clean condition, and shall not leak.
8. Other conditions: _____

ACCEPTANCE OF CONDITIONS

I hereby state that I will adhere to all of the conditions listed above, including all of the conditions set forth by the City Departments in the approvals provided above.

Signature of Applicant _____ Date _____

**MASSACHUSETTS DEPARTMENT OF REVENUE
REVENUE ENFORCEMENT AND PROTECTION (REAP)
ATTESTATION**

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all State tax returns and paid all State taxes required under law.

*Signature of Individual or Corporate Name (Mandatory)

By: Corporate Officer (Mandatory, if a corporation)

Federal Identification Number

* This license will not be issued unless this certification clause is signed by the applicant.



City of Somerville, Massachusetts
Finance Department, Treasury Division

WARNING: TREASURY NEEDS FIVE BUSINESS DAYS TO PROCESS THIS FORM.

CERTIFICATE OF GOOD STANDING

Exact name of taxpayer/applicant's business: _____

Address of taxpayer/applicant's business in Somerville: _____

Address of taxpayer/applicant's home in Somerville: _____

Taxpayer/applicant's phone: _____ email: _____

I, (print name) _____, the undersigned Taxpayer, do hereby certify that all the information contained herein is true and correct and all taxes and fees due the City have been paid or that the Taxpayer has entered into an agreement to pay all taxes and fees and is current on said agreement.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY, this _____ day of

_____, 20_____.

(Taxpayer's signature)

CITY'S ACKNOWLEDGEMENT

DATE OF ISSUANCE: _____ **INCLUDES RELEVANT POSTINGS THROUGH:** _____

TAXES AND ACCOUNT NUMBER(S) INCLUDED IN CERTIFICATE:

Real Estate Water/Sewer Personal Property Other: _____

_____ # _____ # _____ # _____

NOTES:

CLERK'S INITIALS: _____

ORIGINAL STAMP:

**The Commonwealth of Massachusetts
Department of Industrial Accidents
Office of Investigations
600 Washington Street
Boston, Mass. 02111**

Workers' Compensation Insurance Affidavit - General Businesses

Applicant information:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____ Phone #: _____

- | | | |
|--|--|--|
| <input type="checkbox"/> I am an employer with _____ employees (full and/or part time). | Business Type: | <input type="checkbox"/> Retail |
| <input type="checkbox"/> I am a sole proprietor or partnership and have no employees. | | <input type="checkbox"/> Restaurant/Bar/Eating Establishment |
| <input type="checkbox"/> We are a corporation that has exercised our right of exemption per c152 s1(4), and have no employees. | | <input type="checkbox"/> Office and/or Sales (real estate, auto, etc.) |
| <input type="checkbox"/> We are a nonprofit organization staffed by volunteers and have no employees. | | <input type="checkbox"/> Nonprofit |
| | | <input type="checkbox"/> Entertainment |
| | <input type="checkbox"/> Manufacturing | |
| | <input type="checkbox"/> Health Care | |
| | <input type="checkbox"/> Other _____ | |

Workers' compensation insurance information (if applicable):

Insurance Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____ Phone #: _____

Policy #: _____ Expiration Date: _____

Applicant certification:

Failure to secure coverage as required under Section 25A of MGL 152 can lead to the imposition of criminal penalties of a fine up to \$1,500.00 and/or one years' imprisonment as well as civil penalties in the form of a STOP WORK ORDER and a fine of \$100.00 a day against me. I understand that a copy of this statement may be forwarded to the Office of Investigations of the DIA for coverage verification.

I do hereby certify under the pains and penalties of perjury that the information provided above is true and correct.

Signature: _____ Date: _____

Print Name: _____

Official use only. Do not write in this area. To be completed by city or town official.

City or Town: _____ Permit/License #: _____

- Board of Health
- Building Department
- City/Town Clerk
- Licensing Board
- Selectmen's Office
- Other _____

Contact Person: _____ Phone #: _____