

Regulations for the operation of Food Trucks.

TOWN OF WELLFLEET  
COMMONWEALTH OF MASSACHUSETTS

RULES AND REGULATIONS REGARDING THE OPERATION OF FOOD TRUCKS



Effective: March 22, 2016

Local Licensing Authority: Wellfleet Board of Selectmen

Regulations for the operation of Food Trucks.

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### **Protocol for issuing a Food Truck License**

The Town of Wellfleet, 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.

Before granting a license 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
- Sanitation arrangements and conditions (Health Department Inspection and issuance of a permit shall be required)
- Noise, odors or other disruptions to the surrounding area
- Zoning compliance (Building Department signoff may be required)
- Fire safety (Fire Rescue Department sign off may be required)
- Hawkers and Peddlers license (obtained through the State and signed by the Police Department)
- Any other public safety issues, as identified by the Board of Selectmen
- The number of food trucks operating within the Town
- Previous issues with compliance or performance of the food truck vendor(s)

These regulations are intended to supplement and not usurp existing state law and regulations where applicable. Should these regulations conflict with state law or regulation, state law/regulation will control. In addition, and where applicable, any Zoning Board of Appeals permit issued for private property or any contract entered into and authorized by the Town through a Request for Proposal public procurement process for use of public property for the operation of a Food Truck, shall supersede and have precedence over these regulations. At their discretion the Board of Selectmen may at any time cap the total number of Food Truck licenses issued.

The use and operation of a Food Truck is not regulated by the Zoning Bylaws of the Town. Rather, these regulations promulgated by the Board of Selectmen shall govern the use and operation of Food Truck activity within the Town of Wellfleet and shall use the following qualifications:

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Food Trucks shall adhere to the following guidance for the use and operation within the municipality.

- Central District: Allowed when permitted and with any conditions required by the Board of Selectmen.
- Residential 1 District: Prohibited.
- Residential 2 District: Allowed when permitted and with any conditions required by the Board of Selectmen.
- National Seashore Park District: Allowed only on Town Property when permitted and with any conditions required by the Board of Selectmen.
- Commercial District: Allowed when permitted and with any conditions required by the Board of Selectmen.
- Commercial 2 District: Allowed when permitted and with any conditions required by the Board of Selectmen.

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

### **Application requirements and procedure:**

Any person wishing to apply for a Food Truck License shall fully complete the application form supplied by the Town Administrator's office and follow the procedure below. Upon completion of the application review process, the applicant shall be scheduled for a public hearing before the Board of Selectmen.

**In order to facilitate the process of issuing a Food Truck license applications shall be received no later than April 15 each year. A Food Truck license shall expire on December 31.**

When determining whether to renew a Food Truck license, the Board of Selectmen will utilize the same criteria as set forth in these regulations. Renewal forms may be obtained from the Town Administrator's office and must update all previously filed statements and plans, as appropriate.

1. Submit completed Food Truck application with all approvals from Town Departments to the Principal Clerk in the Town Administrators Office with required fee.
2. The Town Administrators Office will schedule the application on an upcoming Board of Selectmen meeting agenda. This is a public hearing process and will require proper noticing in the newspaper.
3. The application will be heard by the Board of Selectmen and a decision rendered.
4. If approved, the permit will be issued by the Office of the Town Clerk.

### **Maintenance of order and decorum and cooperation with Town officials**

Any person to whom a Food Truck License is issued under these regulations shall ensure that order and decorum is maintained in the licensed area and immediate vicinity at all times, and shall cooperate in every respect with town officials including, but not limited to, representatives of the Board of Selectmen, the Fire Rescue and Police Departments, the Building Department, the Health Department, Board of Health, and Town Administration. The licensed area including any vehicles shall be available at all times for inspection by said officials or any other department or official of the town so directed by the Board of Selectmen.

### **Operating requirements for Mobile Food Vendors**

1. Licensees may only operate at specifically approved public or private locations (hereafter, the "licensed area"), at specifically approved times. If on Town property, Food Trucks shall be removed from the licensed area at the end of each day and are not permitted to remain overnight anywhere on Town property. For private locations, the Licensee shall provide written evidence with their application of the property owner's approval for use of that area. The license does not confer a right to operate without the written permission of the property owner. 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. Excluded from the operation of these regulations are events licensed by the Town of Wellfleet at which the event organizer proposes to have food trucks.
2. 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.
3. If operations are located on a Town owned property the Licensees shall provide evidence of comprehensive liability insurance in the amount of at least \$1 million (single claim), and listing the Town of Wellfleet as an additional named insured.
4. Licensees shall not be permitted to operate within 200 feet of a licensed common victualler establishment without their written permission. Such permission shall not be required in instances where the licensee and the common victualler establishment share common ownership. The 200 feet distance shall be measured as the Board of Selectmen or its designee shall reasonably determine by measuring from the nearest property line to nearest property line and/or nearest Food Truck if the truck is located on a road.
5. Licensees shall not deploy any free-standing sign or flags unless specifically permitted by the Board of Selectmen and in compliance with local Zoning Bylaw. Applicability of Zoning Bylaw shall be determined by the Town Zoning Enforcement Officer.

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6. Licensees shall not deploy tables or seating unless specifically permitted by the Board of Selectmen with permission from the Health Agent.
7. Food Trucks shall not be positioned so as to expose clients to vehicular traffic, or otherwise in an unsafe manner. Food Trucks on Town property shall be parked on a hardened area such as a parking lot or packed surface and shall not be permitted on lawns or on vegetation. Any directive by a Police Officer in this regard shall be immediately complied with.
8. Licensees shall make specific provisions for potable water, electricity, electric lighting if operated at night, collection and proper removal of recycling, trash and wastewater.
9. Licensees shall ensure that the licensed 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.
10. No licensee or employee of the licensee shall consume any alcoholic beverage or unlawful controlled substance during the 4 hours preceding and while on duty.
11. No licensee or employee of the licensee shall be permitted to smoke while working as per Food Code regulations.
12. Operations are permitted between the hours of 7:00 a.m. but not later than 11:00 p.m., unless otherwise specified or as such hours of operation that may be authorized by State statute.
13. Licensees are required to obtain a Hawkers, Peddlers and Transient Vendors license for each manager/owner from the State of Massachusetts and signed by the Wellfleet 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.
14. Licensees shall not be authorized to sell non-food novelty items such as: t-shirts, hats, toys, etc. A separate retail license must be obtained from the Licensing Authority to receive permission to sell non-food items.

### **Amending a Food Truck License**

Licensees who want to amend their current Food Truck License shall make such a request in writing to the Town Administrator who has been granted authority to amend existing Food Truck licenses 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.

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### **Violation, suspension, revocation or modification of a Food Truck License**

Any violation of these regulations will be subject to a fine of \$50 (1st offense), \$100 (2<sup>nd</sup> offense) or \$300 (3rd and subsequent offenses). In addition, any violation may result in the immediate suspension of the license and/or removal of the Mobile Food Vendor's Food Truck and/or other vehicle at the owner's expense. Each day shall constitute a separate offense and if the circumstances warrant it in the judgment of the Police Department or other enforcement officer, in which case such suspension shall be reviewed by the Board of Selectmen at its next available public meeting scheduled in accordance with open meeting law requirements. A licensee may appeal any fine to the Board of Selectmen.

The Board of Selectmen may suspend, revoke or modify a Food Truck License if, after a public hearing, the Board finds that these regulations have been violated.

### **Application Instructions**

1. Fill-out and sign the application form and attachments. Applications are due by April 15<sup>st</sup> and shall expire on December 31<sup>st</sup>.
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 Licenses 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 licenses, etc.), along with a payment for the local fixed fee for the license. The local fee for a Food Truck License is \$50.00.
5. For private locations, the Licensee shall provide written evidence of the property owner's approval for use of that location. The license does not confer a right to operate without the written permission of the property owner.
6. The Board of Selectmen 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, an interview will be scheduled with the Town Administrator or the TA's designee to discuss the applicant's plans for operation. The applicant will then be required to appear before the Board of Selectmen for a public hearing. Staff in the Selectmen's Office will notify

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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 Board of Selectmen reserves the right to defer action on the license 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 Board of Selectmen 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 License will be issued. 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.

### **Specific questions should be addressed to:**

Selectmen's Office, Principal Clerk, 508-349-0300

Building Department, Building Inspector, 508-349-0309

Health Department, Health Agent, 508-349-0308

Fire Rescue Department, Administrative Assistant, 508-349-3754

Police Department, Chief of Police, 508-349-3702



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Date Applied:

Date Approved:

Date Issued:

**Fee \$50.00**

Office Use Only	Fees Paid:	Tax Cert:	Resumes:	H&P Info:	Plan:	Interview:
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The undersigned hereby applies for a Food Truck License in accordance with the provisions of Town of Wellfleet Board of Selectmen Regulations.

(PLEASE TYPE OR PRINT CLEARLY)

Name of Applicant:

Date:

D.O.B:

Drivers. License 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:		

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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 LICENSED.

(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 License will be approved until the applicant addresses all issues and/or concerns to the satisfaction of the Board of Selectmen; and no Food Truck License 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 TFL will be Issued)

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