

# TOWN OF TISBURY



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

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## **SECTION 1: AUTHORITY**

1.1 The Town of 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**

2.1 These regulations do not apply to mobile food vendors and food trucks who operate in the Town of Tisbury less than 4 days (any part thereof) per calendar year. 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 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 might be required),
- Hawkers and Peddlers License obtained through the Select Board,
- The number of Food Trucks operating within the Town of 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.

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.

2.4 Private Property Locations:

A Food Truck license may be issued to a Mobile Vendor, with any attached condition, limitation or restriction required by the Board, for exercise in the following zoning districts.

- B1 Business District, except on Main Street, Union Street or Water Street.
- B2 Light Business District.
- W/C Waterfront Commercial.

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 Trucks are only permitted on property where a permanent building is either owned or leased by an existing and licensed food establishment that is presently active and operating unless otherwise authorized by the Board.

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 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 Dollars (\$1,000.00). The yearly fee shall be reviewed annually.

3.2 Upon receipt of the completed application and application fee, the application shall be scheduled for a public hearing before the Select Board. Hearing will follow the regulations adopted by the Select Board governing hearing procedures. A formal public hearing will be required for new applications, and changes in ownership.

3.3 The applicant will be required to notify abutters within 500 feet of the premises proposed to be licensed. The list of abutters must be certified by the Board of Assessors. The Select Board reserves the right to order further notice requirements at its discretion.

3.4 A Food Truck License shall expire on December 31<sup>st</sup> of each year. Application for renewal must be completed by the December 1st prior to expiration or a late fee of \$50 will be applicable. Applications for renewal will not require a public hearing.

3.5 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.

#### **SECTION 4: OPERATING RULES FOR LICENSEES**

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

4.2 Licensees shall comply with all Board of Health rules and regulations.

4.3 Licensees shall not be permitted to operate within 200 feet of another licensed Common Victualler’s establishment without their written permission. Such permissions shall not be required in instances where the licensee and the Common Victualler’s establishment share common ownership. The 200 feet distance shall be measured by the Select Board or its designee from the nearest property line of the premises proposed to be licensed to the nearest property line of the existing licensed Common Victualler’s establishment.

4.4 Licensees 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.

4.5 Licensees shall not deploy tables or seating unless specifically permitted by the Select Board with permission from Health Agent.

4.6 Food 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.

4.7 Licensees shall make specific provisions for potable water, electricity, electric lighting if operated at night, collection and proper removal of recyclables, trash and wastewater.

4.8 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 and Select Board.

4.9 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.

4.10 Operations are permitted between 7:00 AM to 10:00 PM, unless otherwise specified by the Select Board. The Select Board reserves the right to set a minimum amount of operational hours.

4.11 Licensees 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 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.

4.12 Licensee 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.

4.13 Licensee shall not be authorized to sell or provide any alcoholic beverages.

4.14 Adequate parking facilities for customers and employees shall be available.

4.15 Food and beverage supply loading operations are not permitted, unless approved by the Board.

4.16 Maintenance and exterior washing of the Food Truck on the approved location is not permitted, unless approved by the Board.

## **SECTION 5: PENALTIES**

5.1 Any violation of these regulations will be subject to a penalty of \$100.00 (1<sup>st</sup> offence), \$250.00 (2<sup>nd</sup> offence). 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 3<sup>rd</sup> offence the violation shall be reviewed by the Select Board at its next 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 Tisbury Select Board through the 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 and Gas Inspector,
- 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 Tisbury Police Department,
- Copy of the Motor Vehicle Registration, if applicable, verifying the vehicle is registered the Commonwealth of Massachusetts and proof of the state vehicle inspection,
- Filled-out and Signed Workmen's Compensation Affidavit,
- Application fee of One Hundred Dollars \$100.00 Additional yearly license fee of One Thousand Dollars \$1,000.00 will be charged after application is approved,
- For private location, written evidence of property owner's approval for use of that location,
- Certificate of Liability Insurance, and
- 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 public hearing. Staff in the Select Board's Office will notify the applicant by telephone or email of the date and time of the public hearing at least 48 hours before the hearing.

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 August 15, 2020

8.3 The date of adoption of these regulations by the Select Board was July 28, 2020 following a public hearing.

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James J. Rogers  
Chair

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