

# Town of Needham Board of Selectmen

Policy Number:	BOS-LIC-013
Policy:	Take Out Food Served by Mobile Food Vendors (Formerly Regulation of Food Trucks)
Date Approved:	October 8, 2013
Date Revised:	Revised June 9, 2015, August 15, 2017
Approved:	_____ Chairman, Board of Selectman

## **Section 1: Definitions**

*Mobile Food Vendor* - any person who travels from place to place upon public ways and dispenses food from a food truck, food cart, beverage/coffee truck, ice cream truck, canteen truck, catering truck, breakfast truck, lunch truck, lunch wagon, or any other mobile food vehicle. This policy applies to mobile food vendors except as provided under Section 7.

*Hawker/Peddler* – Any person who goes from place to place within the Town selling goods, wares or merchandise, whether on foot or in a vehicle, for profit, is a hawker or peddler (these two terms are interchangeable), unless such person is excluded from the operation of M.G.L.A., Ch. 101 by the provisions of Section 15 of said Chapter.

### **Section 1. Policy**

The Town of Needham, acting through its Board of Selectmen (the “Board”) may authorize Mobile Food Vendors to operate in approved locations on the public right of way, at School buildings, parking lots and adjacent fields, and at public parks and adjacent parking lots, at times deemed to be in the best interest of the Town. Permitted Mobile Food Vendors must comply with all applicable hawker and peddler and sanitation and food safety rules and regulations.

### **Section 2. General Provisions Applicable to All Mobile Food Vendors**

- 2.1 Any person wishing to apply for a Mobile Food Vendor Permit shall fully complete the application form (Attachment #1), including authorization for the Town to obtain personal Criminal Offender Record Information (CORI) and Sex Offender Record Information (SORI) throughout the duration of the permit. CORI and SORI approval will be valid for one year. The Town reserves the right to obtain personal CORI and SORI for all employees who will be employed by the Mobile Food Vendor, at its discretion.
- 2.2 Mobile Food Vendors shall comply with all applicable provisions of the Town of Needham General By-laws, and all local and state tax regulations, including but not limited to retail sales taxes applicable to food and beverages.

- 2.3 Mobile Food Vendors must be positioned at least 200 feet from the customer entrance of a fixed location restaurant, unless waived by the Board of Selectmen.
- 2.4 Mobile Food Vendors shall not block drive entrances, exits, access to loading and/or service areas, or emergency access and fire lanes. Vendors must be positioned at least 20 feet away from fire hydrants, any fire department connection, driveway entrances, alleys, and handicapped parking spaces.
- 2.5 Mobile Food Vendors may not operate as a drive-in/drive-up/drive-through operation. All service must be walk-up by customers.
- 2.6 Trash and recycling receptacles shall be provided for customers and trash and recyclables shall be removed from the site daily. Permit holders shall make specific provisions for trash removal and ensure that the licensed area is kept clean, neat and sanitary at all times. Reliance on the use of municipal trash and recycling receptacles is not considered acceptable.
- 2.7 If a Mobile Food Vendor is authorized to operate after dark, the vendor must assure appropriate lighting.
- 2.8 No signage shall be allowed, other than signs permanently attached to the motor vehicle/cart and a portable menu sign no more than nine (9) square feet in display area on the ground in the customer waiting area, unless specifically authorized by the Board of Selectmen.
- 2.9 No Mobile Food Vendor shall set up tables, chairs, umbrellas or similar facilities (standing counters and tables without chairs or stools are permitted), unless specifically authorized by the Board of Selectmen.
- 2.10 Mobile Food Vendor permits shall be applicable during the period April 1<sup>st</sup> to November 30<sup>th</sup> unless extended by vote of the Board of Selectmen. Permit holders may only operate at specifically approved locations at specifically approved times.
- 2.11 Any person to whom a Mobile Food Vendor Permit 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.
- 2.12 Mobile food vehicles shall not be positioned so as to expose customers to vehicular traffic, or otherwise in an unsafe manner. Any directive from a Police Officer in this regard shall be immediately followed.
- 2.13 A Mobile Food Vendor who offers entertainment shall obtain a license from the Board of Selectmen, pursuant to the Town's Entertainment Regulations.
- 2.14 No Mobile Food Vendor or employee shall permit a patron to bring into the permitted area any alcoholic beverage for sale or consumption on the premises.

- 2.15 Mobile Food Vendors shall not sell non-food novelty items, noise makers or toys.
- 2.16 The Board of Selectmen may waive conditions or requirements of this Policy if the Board determines such to be in the best interests of the Community.

**Section 3: Authorized Locations for Mobile Food Vendors**

- 3.1 Public Right of Way Mobile Food Vendors may operate in the public right of way under the following conditions:
  - 3.1.1 Mobile Food Vendors may be located in the public right of way, as provided in Appendix 1, in areas identified by the Board of Selectmen in Appendix 2, after consultation with the Planning Board, as not served by fixed location restaurant facilities. The Board of Selectmen may from time to time review and modify the locations and areas listed in Appendix 1 and Appendix 2.
  - 3.1.2 Mobile Food Vendors may not be located in or on any portion of a designated public right of way when and where such location would prevent the safe use of the public right of way by motor vehicles, pedestrians, and/or customers. The vending location shall not otherwise interfere with the movement of motor vehicles in the area.
- 3.2 School Buildings, Parking lots and Adjacent Fields Mobile Food Vendors may operate at approved Public School Buildings, parking lots, and adjacent fields under the following conditions:
  - 3.2.1 When invited to operate by invitation of a person or organization with a valid permit to use the school parking lot or adjacent play areas/fields, and with approval of the permit granting authority.
  - 3.2.2 The mobile food vendor shall comply with all requirements of the permit granting authority.
  - 3.2.3 The Mobile Food Vendor shall comply with all general regulations for mobile food vendors.
- 3.3 Public Parks and Adjacent Parking Lots by Invitation of Permitted Organizations Mobile food vendors may be permitted to operate at approved Public Parks and Parking Lots, as listed in Appendix 3, under the following conditions:
  - 3.3.1 When invited to operate by a person or organization with a valid permit for use of the park or any portion thereof, and with approval of the permit granting authority.
  - 3.3.2 The Mobile Food Vendor shall comply with all requirements of the permit granting authority.

- 3.3.3 The Mobile Food Vendor shall comply with all general regulations for mobile food vendors.
- 3.3.4 The Board of Selectmen will develop the list of parks and adjacent parking lots on Appendix 3 after consultation with the board, committee, or commission, if any, having primary jurisdiction over the parcel.
- 3.4 Public Parks and Adjacent Parking Lots by Direct Permit The Office of the Town Manager may grant permits to Mobile Food Vendors to operate at specified locations at approved Public Parks and Adjacent Parking Lots on identified times and dates, as listed in Appendix 4, under the following conditions:
  - 3.4.1 The Town Manager shall coordinate the permit application process, and may allocate available permit opportunities among qualified applicants, including by lottery or other reasonable means.
  - 3.4.2 The Mobile Food Vendor shall comply with all site specific requirements.
  - 3.4.3 The Mobile Food Vendor shall comply with all general regulations for mobile food vendors.
  - 3.4.4 The Board of Selectmen will develop the list of locations, times, and dates in Appendix 4 after consultation with the board, committee, or commission, if any, having primary jurisdiction over the parcel.
- 3.5 Mobile Food Vendors Operating on Public Property Not Otherwise Covered – Reserved
- 3.6 Mobile Food Vendors Operating on Private Property - Reserved

**Section 4. Application and Permitting Requirements**

- 4.1 The Town Manager shall coordinate the permit application process, and may allocate available permit opportunities among qualified applicants, including by lottery or other reasonable means.
- 4.2 All Mobile Food Vendors must obtain requisite licenses and/or permits for operation from the Public Health Division, Police Department, Fire Department, and Board of Selectmen (refer to checklist on Attachment 2).
- 4.3 Application must 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, and the proposed hours of operation.
- 4.4 Permit holders shall provide evidence of comprehensive liability insurance in the amount of at least \$1 million (single claim), and listing the Town of Needham as an additional

named insured. Mobile Food Vendors must obtain requisite insurance, bonding and workers compensation as required by the Town.

- 4.5 A Mobile Food Vendor's permit must be prominently displayed at all times while in operation on licensed area.
- 4.6 Violation of any of the provisions of this Policy may result in the revocation of the permits and licenses issued to the vendor to operate in Needham.

**Section 5. Fees**

- 5.1 The flat fee for a full season one (specified) day per week public right of way permit (Section 3.1) shall be \$100, with additional season-days \$100 each to a maximum fee per season of \$700.
- 5.2 The fee for an intermittent public right of way permit (Section 3.1) shall be \$20 for each individual day. Such permits will be issued only to the extent space is available, and seasonal permits will have precedence over requests for intermittent permits.
- 5.3 The fee for an intermittent permit for use of School Buildings, Parking lots and Adjacent fields (Section 3.2) shall be \$10 per day.
- 5.4 The fee for an intermittent permit for mobile food vendors invited by organizations to operate at approved public parks and adjacent parking lots (Section 3.3) shall be \$10 per day.
- 5.5 The fee for direct permit mobile food vendors (Section 3.4) shall be \$20 per day.

**Section 6. Violation, suspension, revocation or modification of a Mobile Food Vendor Permit**

Any violation of this policy will be subject to a fine of \$50 (1<sup>st</sup> offense), \$100 (2<sup>nd</sup> offense) or \$300 (3<sup>rd</sup> and subsequent offenses). In addition, any violation may result in the immediate suspension of the permit, and may result in the removal of the Mobile Food Vendor's cart, truck or other vehicle at the owner's expense, 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 a public meeting.

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

**Section 7. Exceptions (Mobile Food Vendor Permit not Required)**

With the exception of food safety, public safety, and hawker and peddler requirements, if applicable, this policy shall not apply to: canteen or coffee trucks that move from place to place and are stationary for no more than thirty minutes at a time, ice cream trucks which move from

place to place, excluding areas prohibited by Town by-law, and are stationary for no more than ten minutes, and private functions on private property.

**Section 8. Resources**

- Attachment 1: Mobile Food Vendor Permit Application
- Attachment 2: Mobile Food Vendor Permit Checklist
- Appendix 1: Locations Approved for Mobile Food Vendors in the Public Right of Way
- Appendix 2: Underserved Commercial Areas
- Appendix 3: Locations Approved for Mobile Food Vendors at Public Parks
- Appendix 4: Locations Approved for Direct Permit Mobile Food Vendor Permits

Hawkers and peddlers policy: <http://needhamma.gov/DocumentCenter/View/15093>

Hawkers and peddlers statute: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter101/Section1>

General By-laws: <http://needhamma.gov/DocumentCenter/Home/View/1859>

Rental of School Facilities: <http://needhamma.gov/index.aspx?NID=2324>

Rental of Fields or Parks: <http://needhamma.gov/index.aspx?NID=718>

## APPENDIX 1

### Locations Approved for Mobile Food Vendors Located in the Public Right of Way

The current locations identified for use by food trucks within the public right of ways areas are:

- First Avenue – along the side of the road located in the general area between A and B Streets\*.
- First Avenue – along the side of the road located in the general area between #114 and #200 First Avenue\*
- Fourth Avenue – along the side of the road located in the general vicinity of #117-#119 Fourth Avenue
- Cabot Street – circular area at the top of the hill

\*Note that these locations may become unavailable depending on construction timelines.

Exact locations must be reviewed and approved by the Needham Police Department.

Locations are subject to change with the approval of the Board of Selectmen and the Needham Police Department.

## APPENDIX 2

### Underserved Commercial Areas

1. New England Business Center
2. Mixed Use-128
3. Industrial 1

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APPENDIX 3

Locations Presently Approved for Mobile Food Vendors at Public Parks

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APPENDIX 3

Locations Presently Approved for Direct Permit Mobile Food Vendors

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