

# Town of Wilbraham

## Board of Health Regulations

### Mobile Food Trucks

#### I. Authority

These rules and regulations are adopted pursuant to and in accordance with G.L. c. 111, § 31.

These rules and regulations are adopted pursuant to the authority granted to the Select Board under M.G.L. c. 101, Section 3 relating to Hawkers, Peddlers and Transient Vendors.

#### II. Definitions

- a. **Board of Health** shall mean the Town of Wilbraham's Select Board who act as the Board of Health.
- b. **Director** shall mean the Town of Wilbraham's Director of Public Health.
- c. **Departments** shall mean the Select Board/Town Administrator's Office, Building Department, Fire Department, Police Department and Planning Department all of the Town of Wilbraham.
- d. **Food Establishment** shall mean a business operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption as set forth in Food Codes.
- e. **Food Codes:** State Sanitary Code 105 CMR 590.002.
- f. **Mobile Food Vehicle** shall mean a food establishment that is located upon a vehicle, or which is pulled by a vehicle, where food or beverage is cooked, prepared, and served for individual portion service.
- g. **Mobile Food Truck** shall mean a mobile food vehicle.
- h. **Vendor:** Mobile Food Truck Business Owner
- i. **Annual Food Truck Location:** A permanent place of business designated by the Board of Health as eligible for the use of an Annual Food Truck Permit.
- j. **Temporary Food Truck Location:** A location where a single event takes place, whether on one or more consecutive days, on public or private property.

#### III. Scope

- a. The provisions of this section shall apply to mobile food operations engaged in the business of cooking, preparing, and distributing food or beverage with or without charge from Mobile Food Trucks on or in public, private or restricted spaces.

#### IV. Mobile Food Truck Permit Required

- a. No person or business entity, including a religious or charitable organization, shall operate a Mobile Food Truck in any public, private, or restricted space without a permit issued by the Wilbraham Board of Health or the Director of Public Health.
- b. A Mobile Food Truck permit is required for each and every individual Mobile Food Truck.
- c. An applicant may request a permit for two periods:

1. **Annual Food Truck Permit:** Annual Food Truck permits shall be issued for the period of **April 1-March 31**. Annual Food Truck Permits may be issued for periods beginning after April 1, but must be renewed annually on the subsequent March 31 from the date of issue. Annual Food Truck Permit Fees shall not be pro-rated or refunded upon surrender. Annual Food Truck Permits may only be issued for use at specific Annual Food Truck Locations as designated by the Board of Health.

**2. Temporary Food Truck Permit:** A Temporary Food Truck Permit shall be required for an event lasting one day, or multiple days, consecutive or otherwise. If the event is more than one day, a single permit shall be issued, but a daily fee shall be required for each day of the event the Vendor requests to operate. No more than fourteen (14) Temporary Food Truck Permits shall be issued to a vendor during the period of April 1-March 31.

d. Temporary Food Truck Permits are required for any Vendor to operate at the following: Events at Fountain Park including the Summer Concert Series; The Wilbraham Farmer's Market; Events held at schools in the Hampden-Wilbraham Regional School District; Events held on any Town of Wilbraham Property; Community Events including, but not limited to Earth Day Cleanup, The Hill Climb, The Peach Blossom Festival; all private events, including private residences and Block Parties, and at locations not designated as Annual Food Truck Locations; and any additional locations as the Board of Health so designates.

e. Nothing shall prohibit a Vendor holding an Annual Food Truck Permit from applying for or being issued a Temporary Food Truck Permit.

f. It shall be the responsibility of the Vendor to apply for and acquire the proper Annual or Temporary Mobile Food Truck permit.

g. Vendors requesting an Annual Food Truck Permit may do so beginning February 1 of each year.

h. Vendors requesting a Temporary Food Truck Permit must apply for their Permit no later than twenty-one days prior to the event. The Board of Health, in its sole discretion, may consider approval of Temporary Food Truck Permits submitted within the twenty-one days prior to the event, but shall not be required to do so.

i. Annual Food Truck Permit Fees and Temporary Food Truck Permit Fees shall be non-refundable, and non-transferable to another Event or Vendor.

## **V. Application Package for a Mobile Food Truck permit**

a. *Application Package.* There shall be made available by the Board of Health an application package & forms to apply for each Mobile Food Truck Permit. Permits are specific to the individual Food Truck. The application shall provide the following:

1. A Procedure for Obtaining a Mobile Food Truck Permit
2. An Application for Mobile Food Truck Plan Review
3. An Application for Mobile Food Truck Permit to Operate
4. A description of areas of the Town where the operation of Mobile Food trucks are allowed or prohibited.

b. *Approval Process.* An application must be submitted to the Board of Health. Upon receipt the application shall be dated and time-stamped and forwarded to the Board of Health for review at its next regular meeting. The application must receive the approval of the Board of Health, Fire Department, Police Department, and any other Department the Board of Health deems necessary, before a Mobile Food Truck Permit is issued. Once final approval is granted by the Board of Health and the requisite Departments, the Director of Public Health shall issue a permit to operate.

- c. In issuing a permit, the Board of Health or Director of Public Health may consider:
1. Traffic and pedestrian safety issues
  2. Impact on nearby parking, residences, and businesses.
  3. Sanitation arrangements and conditions (as demonstrated by a permit from the Board of Health)
  4. Compliance with Zoning or other Town rules, regulations or bylaws.
  5. Noise, odors or other disruptions to the surrounding area
  6. Zoning compliance (Building Department signoff may be required)
  7. Fire safety (Fire Department sign off may be required)
  8. Hawkers and Peddlers license (obtained through the State and signed by the Police Department)
  9. Any other public safety issues, as identified by the Select Board
  10. The number of food trucks operating within the Town
  11. Previous issues with compliance or performance of the food truck vendor(s)

## **VI. Limitation on the Number of Permits**

The Board of Health or Director of Public Health may allow and set a limit on the number of total Mobile Food Truck Permits, whether they are Annual or Temporary, that may be issued or renewed per year in its sole discretion. “Year” shall mean April 1-March 31. Mobile Food Truck Vendors are limited to one (1) Annual Mobile Food Truck Permit per individual Mobile Food Truck owned by them, and up to fourteen (14) Temporary Food Truck Permits, per individual Mobile Food Truck owned by them. The term of “year” shall mean April 1-March 31. Upon receipt of application, the Director of Public Health or his or her designee shall advise the applicant whether or not the limitation has been met.

## **VII. Location of Permits:**

- a. Annual Mobile Food Truck Permits may be approved for locations holding On-Premise Alcohol (Pouring) Licenses that are registered and approved by the Board of Health to host Mobile Food Trucks. Annual Mobile Food Truck Permits may also be issued for the following: Events at Fountain Park including the Summer Concert Series; Fern Valley Farms; Events held at schools in the Hampden-Wilbraham Regional School District; and the Wilbraham Farmer’s Market. A list of these locations shall be provided by the Board of Health. Additional locations may be approved by the Board of Health.
- b. Temporary Mobile Food Truck Permits may be issued for Town Festivals and Events as follows: Events at Fountain Park including the Summer Concert Series; The Wilbraham Farmer’s Market; Events held at schools in the Hampden-Wilbraham Regional School District; Events held on any Town of Wilbraham Property; Community Events including, but not limited to Earth Day Cleanup, The Wilbraham Hill Climb, The Peach Blossom Festival; all private events, including private residences and Block Parties, and at locations not designated as Annual Food Truck Locations; and any additional locations as the Board of Health so designates.

## **VIII. Permit Renewal**

- a. Every Annual Mobile Food Truck Permit, unless suspended or revoked by the Board of Health or the Director of Public Health for a prior violation of any provision of this section or other rule or regulation promulgated for the implementation of this section, must be renewed Annually as the Annual Mobile Food Truck Permit expires. The term for the Annual Food Truck Permit shall be April 1-March 31. The Annual Mobile Food Truck Permit shall therefore be considered for renewal by the Board of Health upon receipt of the renewal application, and the Annual Food Truck Permit application is approved by the Board of Health, and the Annual Mobile Food Truck Permit fee is paid within thirty (30) days after its approval, after which time the permit applicant shall forfeit the right to renew and the Annual Food Truck Permit may

be made available to another applicant for new permit if the limitation on the number of Mobile Food Truck Permits established by the Board of Health has not been reached.

b. The renewal of a Mobile Food Truck Permit does not guarantee renewal of the previously approved location. The Board of Health and the Director of Public Health reserve the right to add, remove, and reapportion available locations among Mobile Food Truck operations at renewal if a particular location has led to the creation of a nuisance or if it otherwise endangers the public health, safety, or order.

## **IX. Rules and Regulations**

a. *General.* The Board of Health and the Director of Public Health are hereby authorized to promulgate, both jointly and within their respective departments, additional rules and regulations appropriate for the implementation of these regulations and, if necessary, work with other agencies and departments of the Town and state to establish a streamlined process for the permitting of Mobile Food Trucks; provided, however, that such rules and regulations are consistent with the following limitations and restrictions:

1. No operator of a Mobile Food Truck shall park, stand, or move a vehicle and conduct business within areas of the Town where the Vendor has not been authorized to operate;
2. No Mobile Food Truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
3. Consumers shall be provided with single service articles, such as plastic forks and paper plates, and a waste container for their disposal. All Mobile Food Trucks shall offer a waste container for public use that the operator shall empty at their own expense.
4. No Mobile Food Truck shall make or cause to be made any unreasonable or excessive noise.
5. A Mobile Food Truck is prohibited from operating at any other location and times within the Town other than the approved location and times granted by the Board of Health.
6. The Town reserves the right to temporarily move a Mobile Food Truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.

b. *Wilbraham Board of Health:* The Wilbraham Board of Health shall ensure compliance with the Massachusetts State Sanitary Code 105 CMR 590 “Minimum Standards for Food Establishment” and the U.S Department of Health & Human Services Food and Drug Administration 1999 Federal Food Code.

c. *Wilbraham Building Department.* The Wilbraham Building Department may elect to promulgate rules and regulations for the inspection of Mobile Food Trucks to ensure compliance with all applicable federal, state, and local Building statutes, regulations, ordinances, and codes.

d. *Wilbraham Fire Department.* The Wilbraham Fire Department may elect to promulgate rules and regulations for the inspection of Mobile Food Trucks and to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.

e. *Wilbraham Police Department.* The Wilbraham Police Department may elect to promulgate rules and regulations for the inspection of Mobile Food Trucks and to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.

## **X. Permit Fees**

a. *Mobile Food Truck Placement on an Approved Location Plan Review Fee.* There shall be no fee for a plan review for the placement of a Mobile Food Truck on any location, whether for an Annual or Temporary Mobile Food Truck Permit.

b. *Mobile Food Truck Inspections.* There shall be no fee for Inspection of a Mobile Food Truck.

- c. *Annual Mobile Food Truck Permit Fee:* The fee for an Annual Mobile Food Truck Permit shall be \$200. Annual Mobile Food Truck Permit are issued for the term of April 1-March 31. The fee shall not be pro-rated, is non-refundable, and is not transferable to another Mobile Food Truck the Vendor operates, or to another separate Mobile Food Truck Vendor.
- d. *Temporary Mobile Food Truck Permit Fee:* The fee for a Temporary Mobile Food Truck Permit shall be \$25. Temporary Mobile Food Truck Permit are issued for the months of April 1-March 31. The fee shall not be pro-rated, is non-refundable, and is not transferable to another Mobile Food Truck the Vendor operates, or to another separate Mobile Food Truck Vendor.

## **XI. Prohibition Against the Transfer of a Permit.**

- a. *Transfers Prohibited.* No person holding a permit for a Mobile Food Truck shall sell, lend, lease or in any manner transfer a Mobile Food Truck Permit.
- b. *Unauthorized Transfer Voids Permit.* Any unauthorized transfer or attempt to transfer a Mobile Food Truck Permit shall automatically void the Mobile Food Truck Permit. Whoever violates this provision, including both the transferor and transferee, shall be subject to a fine of one hundred (\$100.00) dollars, pursuant to Chapter 1 Section 1.19.001 of the Town Health Department Rules and Regulations and may be subject to revocation by the Board of Health of the Mobile Food Truck Permit. The unauthorized transfer or attempt to transfer of each Mobile Food Truck Permit shall constitute a separate violation.

## **XII. Operation of Mobile Food Trucks**

- a. *Operation without permit.* Any Mobile Food Truck being operated without a valid Mobile Food Truck permit issued by the Board of Health or Director of Public Health shall be deemed a public safety hazard and may be ticketed and impounded.
- b. *Unattended Vehicles prohibited.* No Mobile Food Truck shall be parked on the street overnight or left unattended and unsecured at any time food is kept in the Mobile Food Truck. Any Mobile Food Truck which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.
- c. A Mobile Food Truck operating at an unauthorized location, or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement under Chapter 1 Section 1.19.001 of the Town Health Department Rules and Regulations and may be subject to revocation by the Board of Health of the Mobile Food Truck Permit.

## **XIII. Enforcement**

- a. *Fine for Violation.* Any permit holder operating a Mobile Food Truck or service in violation of any provisions of these regulations, or any rules and regulations promulgated by the Board of Health may be subject to a fine of fifty (\$50.00) dollars per day. Each day of violation shall constitute a separate and distinct offense. The provisions of G.L. c. 40, s. 21D may be used to enforce this section.
- b. *Revocation, Suspension, Modification.* Once a Mobile Food Truck Permit has been issued it may be revoked, suspended, modified, or not renewed by the Board of Health or Director of Public Health for failure to comply with the provisions of this section or any rules and regulations promulgated by the Board of Health.

1. No permit shall be revoked, suspended, modified, or not renewed without a hearing before the Board of Health or the Director of Public Health prior to which hearing the Director of Public Health shall give reasonable notice of the time and place of the hearing and the specific grounds of the proposed action. The decision resulting therefrom shall be final and subject only to judicial review under M.G.L. c. 30A, § 14.
  2. The Director of Public Health or his or her designee may suspend a permit for no more than three (3) days without a notice or hearing, if the Director of Public Health specifically notifies the permit holder in writing that there is a violation of public safety, health, or order. In such a case, a hearing shall be held before the Board of Health or the Director of Public Health within forty-eight (48) hours of the suspension in order to determine whether the public safety, health or order concern justified the suspension.
- c. *Removal.* Any permit holder found in violation of this section or of any rules and regulations promulgated by the Board of Health may be issued a ticket for violation and the mobile food vehicle may be impounded.
- d. *Enforcement.* The provisions of this section or any rules and regulations promulgated by the Board of Health may be enforced jointly by the Board of Health, Director of Public Health or designee of the Director, Wilbraham Building Commissioner, Wilbraham Fire Department, or Wilbraham Police Department.
- e. *Appeal Process:* Vendors may appeal a suspension, modification, or revocation of their Mobile Food Truck Permit by submitting a written appeal to the Wilbraham Board of Health. The appeal will be reviewed by the members of the Board of Health during a duly posted public meeting, and will make a final decision on the matter.

#### **XIV. Severability**

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.