

**TOWN OF OAK BLUFFS
COMMONWEALTH OF MASSACHUSETTS**



**RULES AND REGULATIONS
Governing Takeout Food
Served By Mobile Food Vendors**

Effective 1/28, 2013⁴

Local Licensing Authority: Oak Bluffs Board of Selectmen

**Town of Oak Bluffs
Rules and Regulations Governing
Takeout Food Served by Mobile Food Vendors**

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Town of Oak Bluffs
Rules and Regulations Governing
Takeout Food Served by Mobile Food Vendors

Protocol for issuing a Takeout Food License

The Town of Oak Bluffs, through the Board of Selectmen, regulates mobile food vendors pursuant to G.L. c. 101, ss. 3- 5. For these purposes, a Mobile Food Vendor is defined as any person who travels from place to place upon public ways or is parked on public or private property and dispenses food from a food truck, food cart, ice cream truck, canteen truck, catering truck, breakfast truck, lunch truck, lunch wagon, or any other mobile food vehicle. *(These regulations do not apply to mobile food vendors who operate in the Town of Oak Bluffs less than 4 days (any part thereof) per calendar year. However, such vendors are required to obtain a license from the Health Department.)*

Before granting a license, 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
- Interference with or impact on existing businesses
- Sanitation arrangements and conditions (Health Department signoff required)
- Noise, odors or other disruptions to the surrounding neighborhood
- Zoning compliance (Building Department signoff required)
- Fire safety (Fire Department signoff required)
- Hawkers and Peddlers license (obtained through the Police Department)
- Any other public safety issues, as identified by the Board of Selectmen
- The number of Mobile Food Vendors

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.

Application requirements

Any person wishing to apply for a Mobile Food License shall fully complete the application form supplied by the Police Department / Board of Selectmen, including authorization for the Town to obtain a Personal Criminal Record Request Form (CORI) and a Sex Offender Registry Board (SORB) check. The applicant must also have first obtained a Transient Vendor's license from the Office of Consumer Affairs and Business Regulation under G.L. c. 101, s. 3. Upon completion of the application review process, the application shall be scheduled for a hearing by the Board of Selectmen at a public meeting.

Maintenance of order and decorum and cooperation with Town officials

Any person to whom a Mobile Food 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 and Police Departments, the Building Department, and the Board of Health. 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 other than Ice Cream and Canteen Trucks

1. Licensees may only operate at specifically approved public or private locations (hereafter, the "licensed area"), at specifically approved times. For private locations, the Licensee shall provide written evidence of the property owner's approval for use of that area.
2. Licensees shall provide evidence of comprehensive liability insurance in the amount of at least \$1 million (single claim), and listing the Town of Oak Bluffs as an additional named insured.
3. Licensees shall not be permitted to operate within 200 feet of a licensed common victualler without its written permission. Such permission shall not be required in instances where the licensee and common victualler share common ownership. The 200 feet distance shall be measured as the Board or its designee sees fit.
4. Licensees shall not deploy any free-standing sign unless specifically permitted by the Board, and in any event shall comply with all local sign bylaws and regulations.
5. Licensees shall not provide any tables or chairs for patrons, unless specifically permitted by the Board.
6. Mobile food vehicles shall not be positioned so as to expose clients to vehicular traffic, or otherwise in an unsafe manner, and shall maintain a safe perimeter distance from all obstructions for the safety of customers. Any directive of a Police Officer in this regard shall be immediately complied with.
7. Licensees 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 receptacles is not considered acceptable.
8. A licensee who offers entertainment whether live or amplified shall obtain a license from the Board of Selectmen, pursuant to the Town's Entertainment Regulations. No music will be allowed without an entertainment license.

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.
10. No licensee or employee of the licensee shall permit a patron to bring into the licensed area any alcoholic beverage for consumption on the premises.
11. Operations are permitted between the hours of 7 a.m. and dusk, but not later than 9 p.m., unless otherwise specified. This guidance supersedes the permissible hours of operation for Hawkers and Peddlers.
12. Licensees are required to obtain a Hawkers and Peddlers License for each employee from the Oak Bluffs Police Department. As part of this process a Personal Criminal Record Request Form (CORI), Sex Offender Registry Board (SORB) check, and fingerprints will be obtained for each such employee, and a Transient Vendor's License from the Department of Consumer Affairs and Business Regulation.
13. Licensees shall not sell non-food novelty items, noise makers or toys.

Operating requirements for Ice Cream and Canteen Truck vendors

1. Licensees shall provide evidence of comprehensive liability insurance in the amount of at least \$1 million (single claim), and listing the Town of Oak Bluffs as an additional named insured.
2. Licensees shall not provide any tables or chairs for patrons, unless specifically permitted by the Board.
3. Licensees shall not be positioned so as to expose clients to vehicular traffic, or otherwise in an unsafe manner. Any directive of a Police Officer in this regard shall be immediately complied with.
4. Licensees shall make specific provisions for trash removal and ensure that the surrounding area is kept clean, neat and sanitary at all times. Reliance on the use of municipal trash receptacles is not considered acceptable.
5. A licensee who offers entertainment shall obtain a license from the Board, pursuant to the Town's Entertainment Regulations.
6. No employee of the licensee shall consume any alcoholic beverage or unlawful controlled substance during the 4 hours preceding and while on duty.
7. No licensee or employee of the licensee shall permit a patron to bring into the surrounding area any alcoholic beverage for consumption in the area.
8. Operations are permitted between the hours of 7 a.m. (6 a.m. for canteen trucks) and dusk, but not later than 9 p.m., unless otherwise specified. This guidance supersedes the permissible hours of operation for Hawkers and Peddlers.

9. Licensees are required to obtain a Hawkers and Peddlers License for each employee from the Oak Bluffs Police Department or from the State. As part of this process a Personal Criminal Record Request Form (CORT), Sex Offender Registry Board (SORB) check, and fingerprints will be obtained for each such employee, and a Transient Vendor's License from the Department of Consumer Affairs and Business Regulation.
10. Licensees shall not sell non-food novelty items, noise makers or toys.

Operators of Ice Cream and Canteen Trucks are not required to submit a sketch of the licensed area nor are they required to obtain approval from the Building Department or the Fire Department.

Rules and Requirements for Seasonal Mobile Food Vendors on Public Property at Beaches

The Board of Selectmen may issue a Seasonal Stationary Peddler's License to allow Mobile Food Vendors to provide services on Town property for the convenience of people using Sylvia State Beach, or traveling along Beach Road. The license shall be called "Seasonal Stationary Peddler's License" and shall observe the following rules and procedures:

1. The Board of Selectmen may, but shall not be required to, issue three (3) Seasonal Stationary Peddler's Licenses.
2. Applicants for a Seasonal Stationary Peddler's License shall submit an application or renewal application prior to April 1. Existing licensees who fail to submit a renewal application by April 1 shall lose the right to their license. Renewal applicants who submit their renewal prior to April 1 shall be granted a renewal unless the Board of Selectmen finds that the licensee has violated the terms of its license during the previous season.
3. One license shall be allocated to "Big Bridge", and (2) licenses to "Little Bridge". No such licenses shall be permitted in any other area of Town except as permitted by the Board of Selectmen.
4. Licensees under this section may operate from May 1 through October 31, but must operate for at least twenty (20) days per month during the months of July and August. Hours of operation shall be during daylight hours and under no circumstances shall licensee be allowed to sell goods or services after dusk. Failure to operate for at least twenty days or during designated hours may be grounds for rejection of the renewal application for the following season.
5. Licenses are not owned by the licensee, and shall only be transferred with the approval of the Board of Selectmen. Transferees shall be required to pay a transfer fee of \$1000 at the time of transfer. This fee shall be in addition to the yearly licensing fee.
6. No vehicle used under this license may exceed an overall length of 22'6" by an overall height of 10'2" by an overall width of 8'8". A photograph and description of the vehicle must be submitted with the application. The vehicle must be approved

by the Board of Selectmen. Any existing accessory vehicle or trailer and its use in existence at the time of this regulation shall be grandfathered until the time that said license is transferred, sold, operated or managed by another unrelated vendor. The accessory vehicle(s) must be located in the area assigned. The yearly fee for an accessory vehicle shall be \$500.

7. If the vehicle used under this license is a trailer, it must be detached from the truck or automobile pulling it when used. The vehicle and trailer at the big bridge need not be detached.
8. All signage must be approved by the Oak Bluffs Sign Committee, except any signage required by the MA Department of Transportation. All signage must be clear, secured to the vehicle, and in good condition.
9. The Licensee must receive approval from the Board of Health pursuant to the federal food code, 105 C.M.R. 590.009 and local health regulations before a license is issued.
10. In addition to compliance with Board of Health regulations, the licensee shall submit a list of items to be sold each year with its application for approval or renewal by the Board of Selectmen. Approval of items sold shall be in the discretion of the Board of Selectmen (or their designee) and shall not be granted where, in the Board's opinion, service and/or preparation of food will cause excessive and offensive noise, odors, smoke, or other nuisances so as to compromise the peaceful enjoyment of the public at State Beach, Sengekontacket Pond or residences along Sengekontacket Pond.
11. Each application shall include a site plan showing the location of vehicle. Licensee will be required to remain in the location identified on the site plan. Acceptable location to be determined by the Board of Selectmen and the Roads and Byways Committee. A town provided sign shall identify the approved parking area and the enforcement for unlicensed vendors.
12. Licensee shall not interfere with the use of town property by the public to include the use of the boat ramp.
13. The yearly fee for this license shall be \$1000. The yearly fee will be reviewed annually.
14. Any violation of the rules and intended enforcement action shall be documented and mailed to the Licensee. Licensee is entitled to a hearing before the Board of Selectmen. This hearing will determine whether their license shall be renewed and/or revoked.
15. The licensee shall purchase and maintain comprehensive general liability insurance for bodily injury and property damage with a limit of no less than \$2 million aggregate and a policy endorsement which indemnifies the Town and its employees and holds it harmless from any and all claims for injuries to persons or for loss of or

damage to property caused by the licensee while operating on Town property. The Town shall be named as additional insured on said certificate of insurance.

Areas in Oak Bluffs Where Mobile Food Vending is Prohibited

For reasons of safety and congestion, Mobile Food vending and the parking of Mobile Food vehicles shall be prohibited on the following roads and within fifty (50) feet of the road layout within the Town of Oak Bluffs:

Circuit Avenue
Kennebec Avenue
Oak Bluffs Avenue
Lake Avenue
Dukes County Avenue
Circuit Avenue Extension
Seaview Avenue
Seaview Avenue Extension
North Bluff Bulkhead

Residential Districts

Mobile Food Vendors, Hawkers, Peddlers and all manner of Transient Vendors are prohibited from transacting business from residential properties or strictly residential street within the Town of Oak Bluffs.

Renewals

A Mobile Food License is subject to annual renewal. When determining whether to renew a license, the Board of Selectmen will utilize the same criteria as set forth above. Renewal forms may be obtained from the Selectmen's office and must update all previously filed statements and plans, as appropriate. It is the responsibility of the licensee to file for a renewal at least 60 days prior to termination of the current license. Failure to renew prior to expiration shall result in a loss of license and any subsequent renewal request shall be treated as a completely new application.

Violation, suspension, revocation or modification of a Takeout Food License

Any violation of these regulations will be subject to a fine of \$50 (1st offense), \$100 (2nd offense) or \$300 (3rd and subsequent offenses). In addition, any violation may result in the immediate suspension of the license or 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 its next public meeting. A licensee may appeal any fine to the Board of Selectmen.

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

Promulgated the ^{JANUARY, 2014} 28 day of ~~June, 2013~~ by the Board of Selectmen of the Town of Oak Bluffs.

OAK BLUFFS BOARD OF SELECTMEN

Walter Vail, Chairman

Michael Santoro, Vice Chairman

Gregory Coogan

Gail Barmakian

Kathy Burton

Town of Oak Bluffs
Instructions for Applying for a
Mobile Food License
(as Served by a Mobile Food Vendor)

1. Fill-out and sign the application form and attachments.
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 and Police Departments, and obtain Hawkers and Peddlers Licenses for each employee before application is submitted to the Selectmen's Office. Obtain Transient Vendor's License from the Department of Consumer Affairs and Business Regulation of the Commonwealth of Massachusetts.
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 check for the application fee of \$200.00 payable to the Town of Oak Bluffs, to the Selectmen's Office, at the Town Hall, 56 School Street, Oak Bluffs, MA Monday- Friday, 8:30 a.m. -4:00 p.m.
5. For private locations, the Licensee shall provide written evidence of the property owner's approval for use of that location.
6. A Personal Criminal Record Request Form (CORI) and Sex Offender Registry Board (SORB) check will be obtained by the Selectmen's Office for each employee.
7. After the application materials are received and reviewed for completeness, an interview will be scheduled with the Town Administrator to discuss the applicant's plans for operation. The applicant will then be required to appear before the Board of Selectmen during one of its regular public meetings. Staff in the Selectmen's Office will notify the applicant by telephone of the date and time of the interview.
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. Once the Board of Selectmen approves the application, the applicant will need to obtain all required Health Department, Building Department, Police Department and Fire Department final approvals (i.e., permits, reviews and/or inspections)

before the Mobile Food 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, Town Hall, PO Box 1327, Oak Bluffs, MA 02557, 508
693-3554, extension 114

Building Department, Town Hall, PO Box 1327, Oak Bluffs, MA 02557, 508
extension 121

Health Department, Town Hall, PO Box 1327, Oak Bluffs, MA 02557, 508
693-3554, extension 116,

Fire Department, Firehouse Drive, Oak Bluffs, MA 02557, 508 693-0077

Police Department, One Oak Bluffs Avenue, Oak Bluffs, MA 02557, 508 693-0750