

# **TOWN OF BELMONT**

## **Rules and Regulations Pertaining to the Operation of an Ice Cream Truck**

### **Section I Authority**

The Belmont Board of Health, pursuant to the authority granted under Massachusetts General Laws, Chapter 111, Section 31, and Article 8, Section 8.2, of the Town of Belmont's General By-Laws, hereby adopts the following reasonable rules and regulations to protect the public health and safety of the community.

### **Section II Purpose**

The Belmont Board of Health recognizes the rights of individuals to conduct legitimate business inside the borders of the Town of Belmont. At the same time, the Board is cognizant of parental complaints regarding the accessibility of "junk food" to students both inside and outside the Town's schools, and the Police Department's concerns about the traffic and pedestrian hazards which can be caused by mobile vendors. For these reasons, the following Rules and Regulations are being promulgated by the Board of Health on May 5, 2010, to become effective on May 15, 2010.

### **Section III Definitions**

Board: The Board of Health of the Town of Belmont.

Enforcing Person: Any police officer of the Town or any other Town employee designated by the Board for this purpose.

Ice Cream Truck: A mobile vehicle selling pre-packaged ice cream novelties, soft-serve ice cream, collectively, "frozen desserts" and associated products such as bottled soft drinks and candy.

Permit: A permit issued by the Board to Ice Cream Trucks for the sale of frozen desserts and associated products under the State Sanitary Code 105 CMR 590.000 within the Town.

Permittee: Any person or company permitted by the Board to operate an Ice Cream Truck in the Town.

Rules and Regulations: The Rules and Regulations promulgated by the Board regulating Ice Cream Trucks operating in the Town.

School: Any public and private building in the Town being used regularly for elementary, middle or high school educational programs.

Town: The Town of Belmont, Massachusetts.

#### **Section IV     Requirements**

- 1) All Ice Cream Trucks shall obtain a Permit from the Board each year prior to operating in the Town. The Permit fee shall be set by the Board.
- 2) All Ice Cream Trucks will display a state peddler's license and a vehicle safety inspection sticker, and have a working flashing amber dome light and front and rear warning lights to alert vehicles to slow down in the vicinity of the Ice Cream Truck. Such lights shall be kept flashing when the Ice Cream Truck is stopped for the purpose of selling frozen desserts and associate products.
- 3) All Ice Cream Trucks will obey ALL parking signs in the vicinity of their stops; the Police Department will strictly enforce all relevant parking requirements.
- 4) Ice Cream Trucks may NOT sell product within 500 feet of a School's property from 7 AM to 3 PM, on days that School is in session.
- 5) Ice Cream Trucks are required to park only in designated parking locations for any School visited. The designated parking location(s) will be determined by each principal of the School and this information will be available from the Board. Information identifying the designated parking locations will be distributed by the Board each spring when Permits are issued.
- 6) An Ice Cream Trucks may park at any designated parking location for no more than twenty (20) minutes per visit.
- 7) Unless required to keep the refrigeration equipment operating, all Ice Cream Trucks will turn off their engines and not allow engines to idle while stopped to sell frozen desserts and associate products.
- 8) No candy cigarettes or any other candy which imitates smoking or tobacco products may be sold by any Permittee from an Ice Cream Truck under these Rules and Regulations.

#### **Section V     Variances**

Requirements three (3) through six (6), as contained in Section IV, are waived when a School contracts with a specific Ice Cream Truck to participate during a particular School event. In such cases, the School shall notify the Board of any such contract prior to the start of such event.

## **Section VI    Enforcement and Penalties**

### **1.     Permit Suspension or Revocation**

The Board may suspend or revoke any Permit issued pursuant to these Rules and Regulations for any violation of these Rules and Regulations, or any other applicable state law, regulation or local by-law. Such revocation or suspension may take place in accordance with the procedures set forth in 105 CMR 590.14 and 105 CMR 590.15.

### **2.     Criminal Complaint**

Whoever violates any provision of these Rules and Regulations may be penalized by indictment or on complaint brought in the District Court. Except as may otherwise be provided by law, and as the District Court may see fit to impose, the maximum penalty for any violation of these Rules and Regulations shall be \$1000.00 for each offense.

### **3.     Non-Criminal Disposition**

Whoever violates any provision of these Rules and Regulations may, in the discretion of the Board, be penalized by a non-criminal complaint pursuant to the provisions of G.L. c. 40, § 21D and Article 8, Section 8.5 of the Town's General By-Laws. If non-criminal disposition is elected, then any Permittee violating any provision of these Rules and Regulations shall be subject to a non-criminal citation in the amount of \$100.00. Each day on which any violation exists shall be deemed to be a separate offense.

### **4.     Notice of Hearing**

Any Permittee that receives two (2) traffic tickets or two (2) non-criminal citations or any combination thereof will be required to appear at a hearing before the Board at which time the Board may revoke the Permit. A Permit will be revoked for the remainder of the season if a third violation notice is issued to any Ice Cream Truck.

The Board may enforce these Rules and Regulations or enjoin violations thereof through any lawful process, and the election of one remedy by the Board shall not preclude enforcement through any other lawful means.

## **Section VII   Severability**

Each provision of these Rules and Regulation shall be construed as separate to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

**Approved by the Belmont Board of Health:**

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David B. Alper, D.P.M.

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Donna S. David, R.N., M.N.

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Robert M. Eisendrath, M.D.

These Rules and Regulations were reviewed and approved as to form by Town Counsel on May 13, 2010.

A Public Hearing regarding these Rules and Regulations was held on May 5, 2010.

The promulgation of these Rules and Regulations was advertised in the Belmont Citizen-Herald on May 20, 2010.