

RECEIVED
By Office of the City Clerk at 1:42 pm, May 07, 2026

NOTICE OF MEETING
OFFICE OF THE EASTHAMPTON CITY CLERK
MEETING BEING HELD FULLY REMOTE

BOARD/COMMITTEE:	Board of Health		
DATE:	May 13, 2026	TIME:	5:30 p.m.

LOCATION & ROOM:	Google Meet Link - Board of Health Wednesday, May 13 · 5:30 – 7:30pm Time zone: America/New_York Google Meet joining info Video call link: https://meet.google.com/nwn-xqmx-emq Or dial: (US) +1 575-418-3890 PIN: 748 540 780# More phone numbers: https://tel.meet/nwn-xqmx-emq?pin=1502035416192
Clerk or board member:	Irza M. Bigas Meléndez

All meeting notices must be filed and time stamped in the City Clerk’s Office no later than 3 p.m. on the Thursday prior to the week in which the meeting is scheduled.

BOARD OF HEALTH MEETING
AGENDA
May 13, 2026

5:30 P.M. Call meeting to order

Followed by:

1. Public speak time (15 minutes, 3 minutes per person)
2. Approve meeting minutes: 4/8/26
3. Hearing - Proposed Updates to Tobacco Regulations
4. Hearing - Variance Denial Appeal: Ginger Love Mobile Food Truck
5. Director of Public Health Update
6. Health Inspector Update
7. Community Health Worker Update
8. Items not reasonably anticipated by the chair 48 hours in advance of the Board meeting

**DRAFT REGULATION RESTRICTING THE
SALE OF NICOTINE PRODUCTS**

CHECKLIST FOR POLICY DECISIONS:

1. No permit renewal if three sales to persons under 21/ or under NFG age (E)	YES	NO
2. *Nicotine Free Generation (D)	YES	NO
3. Reducing Cap (E)	YES	NO
4. Update minimum cigar package size/price (H)	YES	NO
5. Sale of Nicotine Pouches restricted to adult-only retailers (G)	YES	NO
6. Set Suspension periods: First violation: 3 days, Second violation: 7 days, Third or more violations: 30 days (T)	YES	NO
7. No New Permit within 1000 Feet of a school/existing retailer (E)	YES	NO

*Nicotine Free Generation allows retailers to sell nicotine products to anyone who was 21 years of age or older on an effective date. For everyone else, now and in the future, retailers will never be allowed to sell nicotine products to them.

Regulation of the Easthampton Board of Health Restricting the Sale of Tobacco and Nicotine Products Draft March 2026

A. Statement of Purpose:

Despite state laws prohibiting the sale of tobacco products to youth, access by youth to tobacco and nicotine delivery products is a major problem. In the interest of public health, it is the policy of the City of Easthampton to restrict the sale of tobacco and vape products.

The purpose of this regulation is to regulate establishments that sell tobacco and vape products in a way that will:

- Reduce the number of youth who use tobacco and vape products;
- Prevent the sale of tobacco and nicotine delivery products to individuals born after January 1, 2006;
- Educate shop owners and employees who sell tobacco and nicotine delivery products within the City of Easthampton; and
- Reduce life-long consequences associated with tobacco and nicotine delivery product use.

The Massachusetts Supreme Judicial Court has held that "...[t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means" [Druzik et al v. Board of Health of Haverhill, 324 Mass.129 (1949)]. Now, therefore, the Easthampton Board of Health intends to regulate the sale of tobacco and nicotine delivery products.

Supporting Evidence:

There exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, and irritations to the eyes, nose, and throat.¹

The U.S. surgeon general (2010) has concluded nicotine to be as addictive as cocaine or heroin and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development,³ and that it is addiction to nicotine that keeps youth smoking past adolescence.⁴

A Federal District Court found that Phillip Morris, RJ Reynolds and other leading cigarette manufacturers "spent billions of dollars every year on their marketing activities in order to encourage young people to try and then continue purchasing their cigarette products in order to provide the replacement smokers they need to survive" and that these companies were likely to continue targeting underage smokers.⁵

The majority (90%) of smokers begin smoking before the age of 25, and over 5 million youth and young adults (ages 25 and under) smoke.⁶

Cigars and cigarillos, can be sold in a single "dose;" and enjoy a low tax as compared to cigarettes;⁷

Spitless tobacco, including oral nicotine pouches, sales have increased from 100,000 units a year in 2018 to over 700,000 units a year by 2023, and the current use among Massachusetts high school students increased from 1% in 2019 to 3.2% in 2023⁸

Nicotine use in any form during adolescence can cause addiction and can harm parts of the brain that control attention, learning, memory, mood, and impulse control, Nicotine use may also increase adolescents' risk of future addiction to other drugs.⁹

Spitless tobacco, in particular nicotine salt packages, provides a discrete, cheap nicotine delivery system.¹⁰

The Surgeon General found that exposure to tobacco marketing in stores and price discounting increase youth smoking;¹¹

The U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are “starter” products that help establish smoking habits that can lead to long-term addiction;¹²

The U.S. Surgeon General recognized in his 2014 report that a complementary strategy to assist in eradicating tobacco-related death and disease is for local governments to ban categories of products from retail sale;¹³

The Massachusetts Department of Environmental Protection has classified liquid nicotine in any amount as an “acutely hazardous waste;”¹⁴

Research indicates that the density and proximity of tobacco retailers increase smoking behaviors, including the number of cigarettes smoked per day, reduced smoking abstinence during a quit attempt, and increased smoking prevalence among youth;¹⁵

The density of tobacco retailers near adolescents’ homes has been associated with increased youth smoking rates and initiation of non-cigarette tobacco product use;¹⁶

Tobacco retailers are more prevalent in underserved communities, especially in neighborhoods with a higher proportion of African American or Hispanic residents.¹⁷

Policies to reduce tobacco retailer density have been shown to be effective and can reduce or eliminate social and racial inequities in the location and distribution of tobacco retailers;¹⁸

The Massachusetts Supreme Judicial Court has held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means.”¹⁹

¹ U.S. Center for Disease Control and Prevention (CDC), *Health Effects of Cigarette Smoking Fact Sheet* (2021), https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm. ² CDC, *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*, (2010), http://www.cdc.gov/tobacco/data_statistics/sgr/2010/.

³ U.S. Dep’t of Health and Hum. Servs., *The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General* at 122 (2014), <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

⁴ *Id.* at 13 (Executive Summary).

⁵ *United States v. Phillip Morris*, 449 F.Supp.2d 1, 1605-07 (D.D.C. 2006).

⁶ Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration, *Key substance use and mental health indicators in the United States: Results from the 2020 National Survey on Drug Use and Health* (HHS Publication No. PEP21-07-01-003, NSDUH Series H-56) (2021) (Retrieved from <https://www.samhsa.gov/data/>).

⁷ CDC, *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 12, note 5) (2009) (Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>).

⁸ Massachusetts Dept. of Public Health, *Updated Presentation: Monitoring the Impacts of MA Flavored Tobacco Law*

(2024).

⁹ Campaign for Tobacco Free Kids, *The Rise of Products Using Synthetic Nicotine* (2021) (<https://assets.tobaccofreekids.org/factsheets/0420.pdf>)

¹⁰ Ibid.

¹¹ U.S. Dep't of Health and Human Servs., *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General* 508, 530 (2012) (www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

¹² Food and Drug Administration, *Fact Sheet: Flavored Tobacco Products* (2011), www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf; U.S. Dep't of Health and Human Services, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*, 508, 539 (2012) www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

¹³ See fn. 3 at p. 85.

¹⁴ 310 CMR 30.136

¹⁵ Ying-Chih Chuang et al., *Effects of neighbourhood socioeconomic status and convenience store concentration on individual level smoking*, 59(7) *J. Epidemiol Cmty Health* 568 (2005) (doi: 10.1136/jech.2004.029041); Shelley D. Golden et al., *County-level associations between tobacco retailer density and smoking prevalence in the USA, 2012*, 17 (101005) *Prev. Med. Rep.* (Mar. 2020) (doi: 10.1016/j.pmedr.2019.101005); Eric C. Leas et al., *Place-Based Inequity in Smoking Prevalence in the Largest Cities in the United States*, 179(3) *JAMA Intern Med.*, 442 (2019) (doi: 10.1001/jamainternmed.2018.5990); JG Lee et al., *Associations of tobacco retailer density and proximity with adult tobacco use behaviors and health outcomes: a meta-analysis*. *Tobacco Control*. Published Online First: 03 September 2021; LR Reitzel et al., *The effect of tobacco outlet density and proximity on smoking cessation*. *American Journal of Public Health*. 2011, 101(2):315-320; L Henriksen et al., *Is adolescent smoking related to the density and proximity of tobacco retailers and retail cigarette advertising near schools?* *Preventive Medicine*. 2008, 47(2): 210-4.

¹⁶ LJ Finan et al., *Tobacco Outlet Density and Adolescents' Cigarette Smoking: A Meta-Analysis*, 28(1) *Tob Control*. 27 (2019) (doi: 10.1136/tobaccocontrol-2017-054065); Abdel Magid HS et al., *Tobacco Retail Density and Initiation of Alternative Tobacco Product Use Among Teens*, 66(4) *J. Adolescent Health* 423 (2020) (doi: 10.1016/j.jadohealth.2019.09.004).

¹⁷ Siahpush M. et al., *Association of availability of tobacco products with socio-economic and racial/ethnic characteristics of neighbourhoods*, 124(9) *Pub. Health* 525 (2010) (doi: 10.1016/j.puhe.2010.04.010); Lee JG, et al., *Inequalities in tobacco outlet density by race, ethnicity and socioeconomic status, 2012, USA: results from the ASPiRE Study*, 71(5) *J. Epidemiol Cmty Health* 487 (2017) (doi: 10.1136/jech-2016-208475); D.O. Fakunle et al., *Black, White, or Green? The Effects of Racial Composition and Socioeconomic Status on Neighborhood-Level Tobacco Outlet Density*, *Ethn Health*. 1 (2019) (doi: 10.1080/13557858.2019.1620178).

¹⁸ Ribisl KM, et al., *Reducing Disparities in Tobacco Retailer Density by Banning Tobacco Product Sales Near Schools*, 19(2) *Nicotine Tobacco Res.* 239 (2017) (doi: 10.1093/ntr/ntw185); HG, Henry et al., *Tobacco Retail Licensing and Density 3 Years After License Regulations in Philadelphia, Pennsylvania (2012-2019)*, 110 (4) *Am J. Pub. Health* 547 (2020) (doi: 10.2105/AJPH.2019.305512); A.E. Myers et al., *A comparison of three policy approaches for tobacco retailer reduction*, 74 *Prev. Med.* 67(2015) (doi: 10.1016/j.ypmed.2015.01.025).

¹⁹ *Druzik et al v. Board of Health of Haverhill*, 324 Mass. 129 (1949).

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Easthampton Board of Health by G.L. c.111, §31, which states “Boards of health may make reasonable health regulations.”

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

Adult-Only Retail Tobacco Store (also known as “Retail Tobacco Store” in G.L. c. 270): An establishment that is not adjoined, that has a separate entrance not used by any other retailer, that does not sell food, beverages or alcohol, that does not have a lottery license, whose only purpose is to sell or offer for retail sale tobacco products and/or tobacco product paraphernalia, in which the entry of persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products from the **Easthampton** Board of Health and applicable state licenses. The entrance to the establishment must be secure so that access to the

establishment is restricted to employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.

Blunt Wrap: Any product made wholly or in part from a tobacco product, manufactured or packaged with loose and removable leaves or section of a leaf, or as a hollow tube, which may be used by the consumer to wrap or contain loose tobacco or other fillers.

Bona Fide Purchaser for Value: A bona fide purchaser is someone who exchanges value for property without any reason to expect irregularities in the transaction.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Characterizing Flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

Child-Resistant Packaging: Packaging intended to reduce the risk of a child ingesting nicotine and that meets the minimum standards of 16 C.F.R. 1700 et seq., pursuant to 15 U.S.C. 1471 to 1476, inclusive.

Cigar: Any roll of tobacco that is wrapped in leaf of tobacco or in any substance containing tobacco, with or without a tip or mouthpiece, that is in a readily usable state immediately when removed from its packaging without any modification, preparation or assembly required as in a kit or roll your own package, and is not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1. Tobacco leaf in such kits or roll-your-own packages shall be considered "blunt wraps" for the purpose of this regulation.

Component Part: Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent,

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product.

Coupon: Any card, paper, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price

Distinguishable: Perceivable by either the sense of smell or taste.

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education

Electronic Nicotine Delivery System: An electronic device, whether for one-time use or reusable, that can be used to deliver nicotine or another substance to a person inhaling from the device including, but not limited to, electronic cigarettes, electronic cigars, electronic cigarillos, electronic pipes, vaping pens, hookah pens and other similar devices that rely on vaporization or aerosolization; provided, however, that "electronic nicotine delivery system" shall also include any noncombustible liquid or gel that is manufactured into a finished product for use in such electronic device; provided further, that "electronic nicotine delivery system" shall also include any component, part or accessory of a device used during the operation of the device even if the part or accessory was sold separately; provided further, that "electronic nicotine delivery system" shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation

product or for other medical purposes and is marketed and sold or prescribed exclusively for that approved purpose.

Employee: Any individual who performs services for an employer

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Flavored Tobacco Product: Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product

Health Care Institution: An individual, partnership, association, corporation or trust or a person or group of persons who provides health care services and employs health care providers subject to licensing under this chapter; or a retail establishment that sells pharmaceutical goods and services and is subject to regulation by the board of registration in pharmacy. Health care institutions include but are not limited to hospitals, clinics, health centers, pharmacies, drug stores, doctors' offices, and dental offices.

Liquid Nicotine Container: A package:

1. from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer; and
2. that is used to hold a soluble nicotine in any concentration; provided however, that "liquid nicotine container" shall not include a sealed, prefilled and disposable container of nicotine in a solution or other form in which the container is inserted directly into an electronic cigarette, electronic nicotine delivery system or other similar product if the nicotine or other substance in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

Listed or Non-Discounted Price: The higher of the price listed for a tobacco product on its package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or coupons.

Manufacturer Documentation: A written document from a manufacturer that certifies which of each of its products is not flavored, as defined under Massachusetts law and these regulations. Manufacturer Documentation shall also mean a written document from a manufacturer that certifies the nicotine content expressed as milligrams per milliliter for each of its Electronic Nicotine Delivery System products. A manufacturer documentation must:

1. Be written by the manufacturer of the product(s).
2. Certify that the product(s) listed in the documentation are neither flavored nor have a characterizing flavor as defined by 105 CMR 665.005.
3. Include an attestation clause indicating that the "letter is true and accurate."
4. State that the "manufacturer will immediately provide an updated letter to correct any inaccuracy."
5. State that the person signing the letter "is authorized on behalf of the manufacturer to sign the letter."
6. Contain a signature of the manufacturer's corporate officer or an owner; and
7. For any Electronic Nicotine Delivery System product, certify that it does not have a nicotine content greater than 35 milligrams per milliliter. The content amount must be in "milligrams per milliliter."

If the nicotine content is documented in a separate letter, the above-listed requirements must be included in that separate letter.

Note that a Manufacturer's Documentation IS NOT conclusive evidence that a product is unflavored. A board of health may conduct a smell/taste test to determine if a manufacturer's documentation misrepresents whether a product is flavored.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that can make cigarettes, cigars, or other tobacco products. RYO machines located in private homes used solely for personal consumption are not Non-Residential RYO machines.

Oral Nicotine Pouches: Pre-portioned pouches containing nicotine and other ingredients, intended to be used between the cheek and gum to deliver nicotine.

Permit Holder: Any retailer engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a Tobacco Product Sales Permit pursuant to these regulations, or their business agent.

Retailer: Any person, firm, partnership, association, corporation, company, or organization of any kind, including but not limited to, an owner, operator, manager, proprietor, or person in charge of any establishment, business or retail store.

Retail Establishment: A physical place of business or a section of a physical place of business in which a tobacco product is offered for sale to consumers.

Rolling Papers: Sheets, rolls, tubes, cones, wraps, or leaves, which do not contain tobacco, which are used for rolling cigarettes either by hand or with a roll-your-own machine.

Self-Service Display: Any display including an unlocked humidor regardless of size from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

Schools: Public or private elementary or secondary schools.

Smoking Bar: An establishment that: (i) exclusively occupies an enclosed indoor space and is primarily engaged in the retail sale of tobacco products for consumption by customers on the premises; (ii) derives revenue from the sale of food, alcohol or other beverages that is incidental to the sale of a tobacco product and prohibits entry to a person under 21 years of age; (iii) prohibits a food or beverage not sold directly by the establishment from being consumed on the premises; (iv) maintains a valid permit for the retail sale of a tobacco product as required to be issued by the Easthampton Board of Health; and (v) maintains a valid license issued by the department of revenue to operate as a smoking bar. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars," "hookah bars" and "vape bars."

Tobacco Product Flavor Enhancer: Any product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to any tobacco product. A rolling paper with a characterizing flavor shall be considered a Tobacco Product Flavor Enhancer.

Tobacco Product: A product containing or made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization regardless of nicotine content in the product; provided, however, that "tobacco product" shall also include any component, part or accessory of a tobacco product; and provided further, that "tobacco product" shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product or for other medical purposes and is marketed and sold or prescribed exclusively for the approved purpose.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens, or any other form of payment, dispenses or makes cigarettes or any other tobacco products available, as defined herein.

Regulations:

D. No Tobacco Sales to Persons Born on or after January 1, 2006

1) **No person shall sell or provide a tobacco product to a person born on or after January 1, 2006.**

2) Required Signage:

- a) All retail establishments, **[including smoking bars and adult-only retail tobacco stores]** shall conspicuously post signage, made available from the **city of Easthampton** Board of Health. Such signage shall include: (i) referral information for smoking cessation resources; (ii) a statement that sale of tobacco products, including e-cigarettes, to a person born on or after January 1, 2006 is prohibited; (iii) health warnings associated with using electronic nicotine delivery systems; and (iv) except in the case of smoking bars, notice to consumers that the sale of flavored tobacco products are prohibited at all times. Such signage shall be posted conspicuously in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor. The signage may be in a form developed and made available by the Massachusetts Department of Public Health.
- b) All smoking bars and adult-only retail tobacco stores shall post signage, in the form developed and made available by DPH, on the exterior of the door providing entrance to the tobacco retail store or smoking bar and such sign shall not be obstructed from view or placed at a height of less than four feet or greater than nine from the bottom of the door. Such signage shall state that "No person younger than 21 years old is permitted on the premises at any time."
- c) All smoking bars and those adult-only retail tobacco stores that allow for onsite consumption of tobacco products shall post signage, in the form developed and made available by DPH, on the exterior of the door providing entrance to the tobacco retail store or smoking bar and such sign shall not be obstructed from view or placed at a height of less than four feet or greater than nine from the bottom of the door. Such signage shall warn persons entering that smoking and vaping may be present on the premises and provide information concerning the health risks associated with secondhand smoke and the use of tobacco products, including electronic nicotine delivery systems.

3) Identification:

- a) Each person selling or distributing tobacco products shall first verify the age of **every** purchaser of tobacco products by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is [21 or older] and born on or before January 1, 2006
- b) Each person admitting entrance into a smoking bar or adult-only retail tobacco store shall first verify the age of **every** person entering is 21 or older by means of a valid government-issued photographic identification containing the bearer's date of birth.

E. Tobacco Product Sales Permit:

- 1) No retailer or person shall sell or otherwise distribute or offer for sale tobacco products, as defined herein, within the City of Easthampton without first obtaining a Tobacco Product Sales Permit issued annually by the Easthampton Board of Health. Only owners of

establishments with a permanent, indoor, non-mobile location in Easthampton are eligible to apply for a permit and sell tobacco products, as defined herein, at the specified location in Easthampton.

- 2) As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Easthampton regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing all employees who will be responsible for tobacco product sales regarding federal, state and local laws about the sale of tobacco and this regulation.
- 3) Each applicant who sells tobacco products is required to provide proof of current Tobacco Retailer Licenses issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued. Applicant may be asked to provide evidence that a legitimate business transfer or business purchase has taken place.
- 4) A separate permit, displayed conspicuously, is required for each retail establishment selling tobacco products, as defined herein. The Easthampton Board of Health shall determine the fee annually. All required Massachusetts Department of Revenue licenses related to the sale of tobacco products, as defined herein, must also be displayed conspicuously at the retail establishment.
- 5) Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation. Neither the permit holder nor their employees shall interfere with or obstruct an inspection
- 6) A Tobacco Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time to appeal the fines has expired and/or the permit holder has not satisfied any outstanding permit suspensions.
- 7) A Tobacco Product Sales Permit will not be renewed if the permit holder has sold a tobacco product to a person under the age of 21 or born on or after January 1, 2006] three times within the previous permit year and the time to appeal has expired. The violator may request a hearing in accordance with subsection 6 of the Violations section.
- 8) Retail Density.
 - a) A new Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within **1,000** of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant's business premises
 - b) A new Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within **1,000 feet** of an existing retailer with a valid Tobacco Product Sales Permit as measured by a straight line from the nearest point of the property line of the retailer with a valid Tobacco Product Sales Permit to the nearest point of the property line of the site of the applicant's business premises.
 - c) If the purchaser of a business with a valid tobacco sales permit pursuant to Section E.9 or the current holder of tobacco sales permit changes the location of the business, the new location shall be subject to the retail density requirements of Section E.8.
- 9) Sale of Business.
 - Notwithstanding a cap on the total number of permit holders, the seller of a business holding a valid tobacco sales permit may transfer said permit to a bona fide purchaser for value of the business, subject to approval by the Board of Health, as required herein.
 - The purchaser shall apply for the transfer of the permit no later than (30) calendar days after said purchase. The purchaser shall not sell tobacco products until the **transfer of the permit is approved by the Easthampton Board of Health**; and
 - All fines and suspensions of the previous owner must be satisfied prior to the sale.

10) Maximum Number of Tobacco Product Sales Permits.

As of the effective date of this regulation:

- a) No permits will be issued, and
- b) b. Any permit surrendered, revoked or not renewed either because a retailer no longer sells tobacco products, as defined herein, or because a retailer closes the retail business, shall be returned to the **Easthampton** Board of Health and shall be permanently retired by the Board of Health

F. Prohibition of Smoking Bars:

Smoking Bars are prohibited in the **City of Easthampton**.

G. Oral Nicotine Pouches

The sale or distribution of oral nicotine pouches is restricted to adult only retail tobacco stores

H. Cigar Sales Regulated:

1. No retailer or person shall sell or distribute or cause to be sold or distributed a single cigar unless such cigar is priced for retail sale at two dollars and ninety cents (\$2.90) or more.
2. No retailer or person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars unless such package is priced for retail sale at five dollars and eighty cents (\$5.80) or more.
3. This Section shall not apply to a person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of **Easthampton**.
4. The **Easthampton** Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

I. Sale of Flavored Tobacco Products Prohibited:

No retailer or person, as defined herein, shall possess, hold, keep, sell or distribute or cause to be possessed, held, kept, sold or distributed any flavored tobacco product, as defined herein, or any flavored tobacco product enhancer, as defined herein. Or any flavored tobacco product enhancer, as defined herein

J. Nicotine Content in Electronic Nicotine Delivery Systems:

No retailer or person shall sell an electronic nicotine delivery system with nicotine content greater than 35 milligrams per milliliter; provided, however, that this subsection shall not apply to adult-only retail tobacco stores or smoking bars. Retailers must obtain Manufacturer Documentation verifying that all electronic nicotine delivery products possessed, held, kept, sold, or distributed by the retailer indicating the nicotine content expressed as milligrams per milliliter for each electron nicotine delivery system to be sold in the retail establishment (105 CMR 665.010(C)).

K. Prohibition of the Sale of Blunt Wraps:

No retailer or person shall sell or distribute blunt wraps in Easthampton

L. Free Distribution, Coupon Redemption and Discount Pricing:

No retailer or person shall:

1. Distribute or cause to be distributed, any free samples of tobacco products, as defined herein.
2. Accept or redeem, offer to accept, or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price; and
3. Sell a tobacco product, as defined herein, through any discount (e.g., "buy-two-get-one-free") if the sale reduces the price of a pack to less than the listed or non-discounted price.

M. Out-of-Package Sales:

1. The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging, or dispensing of any tobacco product, as defined herein, for retail sale. No retailer or person, as defined herein, shall possess, hold, keep, sell, or distribute or cause to be possessed, held, kept, sold, or distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.
2. Permit holders who sell Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, Massachusetts Hazardous Waste Regulations.
3. All permit holders must comply with 940 CMR 21.05 which reads: "It shall be an unfair or deceptive act or practice for any person to sell or distribute nicotine in a liquid or gel substance in Massachusetts after March 15, 2016 unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S.C.§§1471 through 1476 and 16 CFR §1700 et seq.
4. No permit holder shall refill a cartridge that is prefilled with nicotine in a liquid or gel substance and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

N. Self-Service Displays:

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

O. Vending Machines:

All vending machines containing tobacco products, as defined herein, are prohibited

P. Non-Residential Roll-Your-Own Machines:

All Non-Residential Roll-Your-Own machines are prohibited.

Q. Prohibition of the Sale of Tobacco Products by Health Care Institutions:

No health care institution located in Easthampton shall sell or cause to be sold tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy, optician/optometrist, or drug store, shall sell or cause to be sold tobacco products, as defined herein

R. Prohibition of the Sale of Tobacco Products by Educational Institutions:

No educational institution located in Easthampton shall sell or cause to be sold tobacco products, as defined herein, including by any person or retailer on the property of an educational institution.

S. Incorporation of State Laws and State Regulations:

1. The sale or distribution of tobacco products, as defined herein, must comply with state statutes including but not limited to those provisions found at G.L. c. 270, §§6, 6A, 7, 28, 29 and G.L. c. 112, §61A.
2. The sale or distribution of tobacco products, as defined herein, must comply with state regulations including but not limited to those provisions found at 940 CMR 21.00, Sale and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts, 940 CMR

22.00 Sale and Distribution of Cigars in Massachusetts; and 105 CMR 665.00, Minimum Standards for Retail Sale of Tobacco and Electronic Nicotine Delivery Systems.

T. Violations:

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent, and not their employees, to ensure compliance with all sections of this regulation. For violations of the sections of this regulation that incorporate G.L. c. 270, §§6, 28, 29 and 105 CMR 665.000, the following penalties apply:

- A. In the case of a first violation, a fine of one thousand dollars (\$1 ,000.00) for a State Law violation and three hundred dollars (\$300.00) for a Local Policy violation shall be issued and, additionally, if the violation is a sale of a tobacco product to a person under the age of 21, the Tobacco Product Sales Permit shall be suspended for three (3) consecutive business days.
- B. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two thousand dollars (\$2,000.00) for a State Law violation and two hundred dollars (\$200.00) for a Local Policy Violation shall be issued and the Tobacco Product Sales Permit shall be suspended for seven (7) consecutive business days.
- C. In the case of three or more violations within a thirty-six (36) month period} a fine of five thousand dollars (\$5,000.00) for a State Law violation and three hundred dollars (\$ 300.00) for a Local Violation shall be issued and the Tobacco Product Sales Permit shall be suspended for thirty (30) consecutive days.

2. List of State Laws and Local Policies:

<u>Policies Subject to State Law Fines</u>	<u>Policies Subject to Local Policy Fines</u>
Tobacco and Vape Sales to persons under 21 (G.L. Ch. 270, §6)	Nicotine Free Generation / Sales to persons born on or after January 1, 2006
Flavored Tobacco Product Sales Restrictions (G.L. Ch. 270, §28)	Prohibition of the Sale of Blunt Wraps
Penalties for sales to a person under 21 of Tobacco/Vape products (105 CMR 665.045)	Ban on Smoking Bars
Local Tobacco Sales Permit suspension for a first violation for sales to a person under 21 of Tobacco/Vape products (105 CMR 665.040(d))	Cigar Sales Regulated, including minimum sales price regulations
Required Retailer Signage (105 CMR 665.015)	Tobacco Product Sales in Health Care Institutions as more broadly defined than in state law
Ban on Free Distribution (105 CMR 665.025)	Tobacco Product Sales in Educational Institutions
Ban on Self-Service Displays (105 CMR 665.010(B))	Non-Residential Roll-Your-Own Machines Ban
Ban on Out-Of-Package Sales (105 CMR 665.030)	Display of MA Department of Revenue license(s)

Sales Without a Local Tobacco Product Sales Permit for Smoking Bars and Retail Tobacco Stores only (105 CMR 665.013(A))	No Local Tobacco Sales Permit
Failure to Check Identification of Purchaser (105 CMR 665.020)	Retailer Density Minimums
Nicotine Content in Electronic Nicotine Delivery Systems (G.L. Ch. 270, §29)	Transfer of Permit in Sale of Business
Coupon Redemption (105 CMR 665.025)	Restricting the Nicotine Content of Oral Nicotine Pouches
Child-Proofed Liquid Nicotine Containers Required (105 CMR 665.035)	Restricting Oral Nicotine Pouches to Adult-Only Retail Tobacco Stores
Failure to obtain manufacturer’s non-flavored certification (105 CMR 665.010(E))	Other local policies
Failure to obtain manufacturer’s nicotine content certification (105 CMR 665.010(C))	
Admitting a person under the age of 21 into an Adult-Only Retail Tobacco Store (105 CMR 665.020(B))	
Other state laws	

3. In the case of four violations or repeated, egregious violations of any section of this regulation, as determined by the Board of Health within a thirty-six (36)-month period, the Board of Health shall hold a hearing in accordance with this regulation and, after such hearing may permanently revoke a Tobacco Product Sales Permit.

4. Failure to cooperate or interference with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for thirty (30) consecutive business days.

5. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while their permit is suspended shall be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days. Multiple suspensions of a Tobacco Product Sales Permit shall not be served concurrently.

6. A permit issued pursuant to this regulation may be suspended, revoked, or not renewed for any of the following reasons:

- Violation of the permit holder of any provision of state or local laws and/or regulations
- Fraud, misrepresentation, false material statement, concealment, or suppression of facts by the permit holder in connection with an application for a permit or for renewal thereof.

7. The Easthampton Board of Health shall provide notice of the intent to suspend or revoke a Tobacco Product Sales Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such a hearing and shall be notified of the

Board of Health's decision and the reasons therefor in writing. After a hearing, the Easthampton Board of Health shall impose fines and/or suspend or revoke the Tobacco Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the Tobacco Product Sales Permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

8. For purposes of such fines, the Board of Health shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense.

U. Non-Criminal Disposition:

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in G.L. c. 40, §21D where the penalty calls for a monetary fine not exceeding three hundred (\$300) dollars.

V. Separate Violations:

Each day any violation exists shall be deemed to be a separate offense

W. Enforcement:

Enforcement of this regulation shall be by the Easthampton Board of Health or its designated agent(s).

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

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Easthampton Board of Health or its designated agent(s).

X. Severability:

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

Y. Effective Date:

This regulation shall take effect on _____, 2026.

CITY OF EASTHAMPTON
Board of Health
Food Establishment Variance Application

VARIANCE APPLICATION
Multi-Day Mobile Food Truck Park Operations
Hawker Square — Easthampton Food Truck Park

SECTION 1 — APPLICANT INFORMATION

Applicant Name: Sherryla Diola

Business Name: Hawker Square — Easthampton Food Truck Park

Business Address: 114 Northampton Street, Easthampton, MA

Email: gingerlovecafe@gmail.com

Phone: 413-923-8024

SECTION 2 — VARIANCE REQUESTED

Code Sections for Which Variance Is Requested

- 590.001(C) — Definition of Servicing Area: Applicant requests recognition of the food truck park as a self-contained servicing area, satisfying all base-of-operation requirements on-site, consistent with how permitted multi-day food festivals operate throughout Massachusetts.
- 5-402.14 — Removal of Mobile Food Establishment Waste: Applicant requests approval of vendor-managed on-board gray water holding systems with scheduled licensed hauler removal, and an on-site commercial dumpster for solid waste disposal, in lieu of daily return to an off-site base of operation.
- 6-501.12(A) — Cleaning of Physical Facilities: As self-contained mobile food establishments, all vendor trucks and trailers are equipped with on-board 3-compartment sinks as required by MA Food Code. Vendors may use their on-board sink for basic rinsing and day-to-day cleaning during service. All dishes and equipment are transported to their permitted commissary in covered, food-safe containers for full washing, rinsing, sanitizing, and air-drying at the end of each shift.
- 5-104.12 — Water Supply: Applicant requests approval of licensed water delivery service and vendor on-board water tanks as the potable water supply source in lieu of a permanent on-site water connection.

Our Request

Hawker Square respectfully asks the Easthampton Board of Health to consider allowing our food truck park to operate under the same guidelines that already apply to permitted multi-day food festivals and outdoor food events throughout Massachusetts. What we are proposing is not

a new or untested concept — it reflects how food trucks already operate at festivals across the state every season.

At those events, food trucks remain on-site for two, three, or four consecutive days. They manage their own water supply, handle their own wastewater, and wash their equipment on-site. Boards of Health across Massachusetts permit this regularly and without issue.

Hawker Square operates under the same conditions. Each truck arrives fully prepared and self-sufficient. Everything required by the Food Code — water supply, waste management, equipment cleaning, and food storage — is handled on the truck itself. We are not asking the Board of Health to lower any food safety standard. We are asking that the same standard already applied to permitted temporary food events be applied consistently to our permanent park.

It is also worth noting that Hawker Square operates on private property. As the park operator, I have full control over who is permitted to operate at this location, what rules they must follow, and how compliance is enforced. Unlike a public street or temporary event space, every vendor at Hawker Square is subject to a signed vendor agreement that outlines all food safety requirements, the 4-day commissary rotation policy, wastewater protocols, and temperature logging obligations. This level of oversight and accountability is greater than what is typically possible at a public event or on a public roadway. We respectfully submit that operating on private property — with a documented, enforceable vendor agreement in place — is an additional factor that supports granting this variance.

We appreciate the Board's time in reviewing this application and look forward to the opportunity to discuss it at the May 8th meeting.

SECTION 3 — HOW PUBLIC HEALTH HAZARDS WILL BE ADDRESSED

The following outlines how each food safety concern identified by the Health Department will be addressed at Hawker Square. For every requirement a traditional servicing area would normally satisfy, we have a documented plan in place to meet that same standard on-site.

3.1 — Vendor Check-In, Length of Stay & 4-Day Commissary Rotation

Hawker Square will enforce a strict 4-day maximum stay policy. No vendor may remain on-site for more than 4 consecutive days without first returning to their permitted commissary for full vehicle and equipment cleaning, waste disposal, water refilling, and food restocking. This rotation policy directly addresses the servicing area requirements of MA Food Code 590.001(C) and ensures every truck returns to its base of operation on a regular, fully documented cycle.

4-Day Rotation Requirements:

- Maximum stay: 4 consecutive days on-site. On day 4, the vendor must depart and return to their permitted commissary before being allowed to return to the park.
- At the commissary, vendors must perform: full vehicle exterior and interior cleaning, complete equipment cleaning and sanitizing, gray water tank emptying and flushing, potable water tank refilling from a certified source, and food restocking from approved suppliers.
- Vendors must return to the park with a completed Commissary Visit Log.

Daily Sign-In / Sign-Out Log:

A daily vendor log will be maintained by the park operator and made available to the Health Department upon request at any time. Each entry will record:

- Vendor name and truck/trailer identification
- Arrival and departure dates — including commissary return dates
- Potable water tank capacity and fill status at each arrival
- Gray water tank capacity at each arrival
- Commissary name, address, and permit number on file
- Commissary Visit Log receipt confirmed at re-entry after each rotation

A weekly schedule of active vendors and their rotation dates will be submitted to the Health Department upon request. Any vendor who has not completed their 4-day rotation on schedule will not be permitted to re-enter the park until their commissary visit has been confirmed and the signed log has been received.

3.2 — Potable Water Supply

Potable water supply at Hawker Square will be managed through two reliable sources. A licensed water delivery company will supply potable water and commercially produced ice to the park on a regular scheduled basis throughout the operating season. In addition, every vendor is required to arrive with their own on-board water tank already filled at their permitted commissary or a certified water source. Tank capacity and fill status are logged at check-in. The delivery company's name, contact information, and schedule will be provided to the Health Department before opening day and kept current throughout the season.

- Water delivery: A licensed water delivery company will supply potable water and commercially produced ice to the park on a regular scheduled basis.
- Vendor on-board supply: Vendors arrive with full on-board potable water tanks filled at their permitted commissary or certified water source. Tank capacity and fill status are logged at check-in by the park operator.
- Vendors are prohibited from operating if potable water supply is insufficient. Vendor agreements explicitly require adequate water supply for the full duration of stay.

3.3 — Wastewater & Gray Water Management

Per MA Food Code 5-402.14, wastewater may not be disposed of on the ground, into storm drains, or into any waterway.

Vendor On-Board Gray Water Tanks:

- Each vendor truck or trailer is required to have an on-board gray water holding tank with sufficient capacity for their length of stay. Tank capacity is documented in the vendor agreement and verified at check-in.

On-Site Central Portable Waste Holding Tank:

- A central portable gray water holding tank will be maintained on-site to serve as a shared receptacle for vendor wastewater overflow. Vendors empty sealed portable containers of gray water into this central tank.
- This central tank will be serviced by a licensed waste hauler on a scheduled basis — no less than once per week, or more frequently based on volume.
- The licensed waste hauler's name, contact information, permit number, and service schedule will be provided to the Health Department prior to opening and kept current throughout the operating season.

Disposal of gray water on the ground, into storm drains, or into any waterway is strictly prohibited at Hawker Square. This requirement is written into every vendor agreement and is grounds for immediate removal from the park.

3.3B — Solid Waste Management

A commercial dumpster will be maintained on-site at Hawker Square for the disposal of all solid waste generated by vendors and customers. Vendors are required to properly bag and dispose of all solid waste in the designated on-site dumpster at the end of each operating day. Dumpster service will be provided by a licensed waste hauler on a regular scheduled basis throughout the operating season. The hauler's name, contact information, and service schedule will be provided to the Health Department prior to opening and kept current throughout the season. No solid waste may be left outside of the dumpster or disposed of on the ground at any time. This requirement is written into every vendor agreement and is grounds for immediate removal from the park.

3.4 — Food Storage, Refrigeration & Transport

Each vendor is responsible for their own food storage and must arrive with sufficient on-board refrigeration to cover their full length of stay — consistent with how food trucks operate at multi-day food events. Per MA Food Code, all food must be stored at least 6 inches off the ground, protected from contamination, and maintained at proper temperatures at all times, including overnight.

- Vendors must arrive with adequate food supply and on-board refrigeration capacity for their planned stay.

- All food deliveries or resupply made during a vendor's stay must be immediately received, logged, and stored at proper temperatures on the truck or trailer.
- No food may be stored outside of the truck's refrigerated or approved dry-storage compartments.
- Vendors must maintain temperature logs consistent with MA Food Code requirements.

Food & Supply Transport Between Truck and Commissary:

Under MA Food Code, vendors can transport food and supplies between the park and their commissary in a separate vehicle. When they do, they need to use proper food-safe transport equipment:

- Cold foods: Transported in food-grade coolers packed with sufficient ice or ice packs to maintain 41°F or below throughout transport. Cooler temperatures must be verified upon arrival and logged.
- Hot foods: Transported in insulated hot boxes, Cambro insulated carriers, or equivalent food-safe insulated containers designed to maintain hot holding temperatures of 135°F or above throughout transport.
- All transported food must be covered, sealed, and protected from contamination during transit.

3.5 — Frozen Food Thawing

Vendors are only allowed to thaw food using methods approved by the MA Food Code — the same rules that apply to any food establishment:

- Thawing under refrigeration at 41°F or below.
- Thawing under cold running potable water.
- Thawing as part of the cooking process.

Thawing food at room temperature is not permitted. This requirement is clearly stated in every vendor agreement and in our park operational rules.

3.6 — Leftover Food Handling

At the end of each operating day, vendors must either keep leftover food properly refrigerated on their truck or trailer, or dispose of it in accordance with MA Food Code requirements. Food may not be left unrefrigerated overnight. Vendors are responsible for ensuring their on-board refrigeration maintains proper temperatures throughout the night.

3.7 — Equipment Washing, Rinsing, Sanitizing & Air-Drying

Vendors are required to transport their dishes and equipment to their own permitted commissary for washing, rinsing, sanitizing, and air-drying at the end of each shift. Items are transported in covered, food-safe containers without needing to move the truck or trailer itself.

3.8 — Cleaning Cloth Management

All vendors are required to follow proper cleaning cloth practices as part of Hawker Square's operational rules:

- Single-use cloths are preferred and must be discarded after each use.
- Reusable cloths, if used, must be stored in an approved sanitizer solution between uses.
- Cloths may not be left on surfaces between uses.

This requirement is included in every vendor agreement.

SECTION 4 — SUMMARY

Multi-day food festivals take place throughout Massachusetts every year. Food trucks remain on-site for multiple consecutive days, managing their own water supply, wastewater, and equipment cleaning. These events are regularly permitted by Boards of Health across the state.

- We are also going further than a typical festival by implementing a 4-day commissary rotation policy, daily sign-in logs, commissary visit logs, and a licensed waste hauler contract. In many respects, this plan includes more built-in accountability than a standard temporary event.
- No public health hazard or nuisance will result from this operation.
- A 4-day maximum stay policy ensures every vendor returns to their permitted commissary for full vehicle cleaning, waste disposal, water refilling, and food restocking on a regular, documented cycle.
- Vendors arrive self-sufficient with their own water supply, refrigeration, wash setup, and gray water capacity — consistent with how trucks operate at permitted multi-day food events.
- A licensed water delivery company will supply the park with potable water and ice on a regular schedule throughout the season.
- A licensed waste hauler will service our on-site gray water holding tank and commercial dumpster on a regular schedule. No wastewater or solid waste will be disposed of on the ground at any time.
- Daily sign-in logs, commissary visit logs, vendor agreements, and hauler contracts provide the Health Department with full visibility into park operations at any time.
- This request is grounded in existing permitted practice across Massachusetts. We are not asking for an exception to food safety standards — we are asking that the same standards already applied to multi-day food festivals be applied consistently to our park.
- Lastly, It is also worth noting that the MA Food Code itself does not require mobile food establishments to return to their servicing area daily. The code states that an MFE returns to its servicing area 'regularly' — 105 CMR 590.001(C) — not daily. Furthermore, under 105 CMR 590.010, a temporary food establishment permit may be issued for up to 14 consecutive days, with no requirement that vendors return to a commissary daily during that time. Our proposed 4-day rotation satisfies the 'regularly' standard as written

in the code. We respectfully submit that requiring daily returns goes beyond what the Food Code actually mandates

SECTION 5 — APPLICANT CERTIFICATION

I certify that the information provided in this application is true and accurate to the best of my knowledge. If this variance is approved, I commit to complying with all conditions set by the Board of Health and to keeping the Health Department informed throughout the operating season.

Applicant Signature

Date

Printed Name & Title



Ryan Griffin
Director of Public Health

Health@easthamptonma.gov
(413) 529-1430

Date: April 20, 2026

Applicant:

GingerLove Café MFT
Attn: Sherryla Diola
P.O. Box 772
Easthampton, MA 01027

From:

Easthampton Board of Health
50 Payson Avenue
Easthampton, MA 01027

**RE: Denial of Variance Request – Mobile Food Establishment
Multi-Day Operations at Hawker Square**

Dear Ms. Diola,

As Health Director for the City of Easthampton Department of Public Health, I have completed the initial regulatory review of your request for a variance from provisions of the Massachusetts Food Code (105 CMR 590.000) and local Mobile Food Truck requirements related to proposed extended operations at "Hawker Square."

This review is conducted pursuant to the Department's role in evaluating whether a variance request meets the threshold criteria for referral to the Board of Health for formal consideration..

Summary of Request

The request seeks approval for Mobile Food Trucks operating at Hawker Square to remain on site for up to four (4) consecutive days without returning daily to their approved servicing location.

The request implicates the following requirements:

- 105 CMR 590.001(C) – Servicing Area
- 105 CMR 5-402.14 – Wastewater Disposal
- 105 CMR 6-501.12(A) – Cleaning Frequency
- Easthampton BOH Mobile Food Truck Permit Conditions – Daily return to base of operations

Determination

Following review of the submitted materials and applicable regulatory requirements, I am unable to forward this request to the Board of Health with a recommendation for approval.

Under the Massachusetts Food Code, variances may be considered only where an alternative approach demonstrates an equivalent level of public health protection. Based on the information provided, the proposed operating model does not meet this threshold.

Accordingly, this request is not recommended for approval and will not be advanced to the Board for variance consideration at this time.

Basis for Denial

1. Daily Servicing Requirement

Current local permitting standards require Mobile Food Trucks to return regularly to a licensed servicing area for essential functions, including cleaning and sanitation, wastewater disposal, potable water replenishment, and proper resupply of food and food storage.

Easthampton interprets 'regularly' in this context as daily, consistent with permit conditions and standard enforcement practice

These requirements are fundamental to maintaining safe and sanitary mobile food operations. The proposed multi-day operating model would extend on-site duration beyond the current regulatory framework without daily servicing.

2. Food Code Compliance and Intent

Under 105 CMR 590.001(C), a servicing area is where mobile units return regularly for essential operations, including cleaning and waste removal. The Board interprets "regularly" as daily, consistent with standard public health practice.

Mobile food trucks are intended to be:

- Self-contained for short-term operation, and
- Dependent on a base of operations for full servicing

The proposed operating model extends beyond this framework in duration and operational intensity.

3. Comparable Operations

The request references multi-day food events and festivals. These operations typically function for a set period of time (no more than 14 consecutive days) with supplemental infrastructure, including proper food storage and food prep areas, dedicated water and wastewater systems, shared warewashing facilities, and continuous on-site oversight.

Large-scale events such as the Big E in West Springfield operate with permanent or semi-permanent infrastructure not present at Hawker Square. As such, these models are not directly comparable to the proposed independent multi-day mobile operation.

4. Operations review - Specific to Ginger Love Cafe MFT

The mobile unit is not currently permitted for operation in Easthampton for the 2026 season. Based on the information submitted in the past, the mobile unit does not demonstrate sufficient refrigerated and dry storage capacity to safely store and maintain food for up to four (4) consecutive days of operation in compliance with the Massachusetts Food Code.

The unit is reported to have a wastewater tank capacity of approximately fifteen (15) gallons, including approximately five (5) gallons designated for handwashing and ten (10) gallons for warewashing. This capacity is limited for even a single full day of operation and is not adequate to support multi-day operation without servicing, as required under 105 CMR 5-402.14.

In addition, the mobile unit does not demonstrate adequate infrastructure or equipment to support effective cleaning and sanitation of food contact surfaces and operational equipment over an extended multi-day period, as required by 105 CMR 6-501.12(A).

5. Inspection history Considered

The Department also considered prior scheduled yearly pre-operational inspection history, which reflects recurring sanitation and equipment-related deficiencies requiring corrective action prior to approval, including:

- **May 22, 2025 Inspection:**
Non-functioning handwashing sink; improper food labeling and date marking; missing required thermometers; unit required thorough cleaning prior to reinspection and approval.
- **May 2024 Inspection:**
Deterioration of floor surfaces; Fire Department violations requiring correction prior to approval.
- **March 23, 2023 Inspection:**
Accumulation of grease on floors, surfaces, and equipment; food debris present on floors; non-functioning water supply; required thorough cleaning prior to approval.
- **April 2022 Inspection:**
Improper food labeling; absence of sanitizer test strips; presence of grease, oil, and food debris throughout the unit; required full cleaning prior to permit issuance.

All identified issues were required to be corrected prior to permitting, and were resolved before approval. This history was considered as part of the unit's overall assessment of its readiness for extended-duration operations without daily servicing.

Based on equipment capacity, sanitation infrastructure, and prior inspection history, the Applicant has not demonstrated the operational capacity necessary to safely support multi-day operations without daily return to a licensed servicing location.

6. Nature of the Proposed Operation

The proposed model more closely resembles a food court or a permanent food establishment than a traditional mobile food operation.

Such operations require:

- Permanent infrastructure
- Full compliance with restaurant-level standards, including plumbing, wastewater, and food storage/food prep areas.

Hawker Square, as proposed, does not meet these requirements.

7. Variance Scope and Applicability

A variance cannot be granted broadly for all mobile food trucks.

While this request was reviewed as it pertains to GingerLove Café MFT, the Board notes that:

- Each permit holder must submit an individual request
- No mobile food truck would be approved to operate (for multiple days without returning to the base of operation daily) under the proposed conditions

Conclusion

The proposed operation:

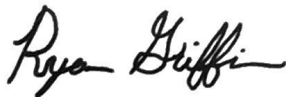
- Does not meet the intent or requirements of the Massachusetts Food Code
- Would reduce established public health protections
- Presents potential risks related to sanitation, food safety, and waste management

For these reasons, the variance request is denied.

You are not prohibited from operating at "Hawker Square." However:

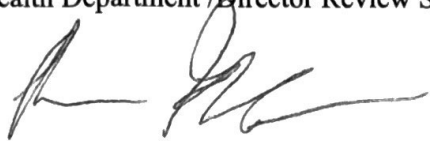
- All permitted Mobile Food Trucks must **return to their approved base of operations daily**, both before and after food service.
- Failure to comply may result in **enforcement action**, including fines, permit suspension, or revocation

Should you choose to appeal this decision, any appeal must be submitted in writing and **must include new, substantive, and material evidence** demonstrating that the proposed operation satisfies the legal standard for issuance of a variance, including demonstration of an equivalent level of public health protection as required under 105 CMR 590.000.



Ryan Griffin, For the Board of Health
Director of Public Health
City of Easthampton Health Department
Rgriffin@Easthamptonma.gov
413-529-1400 x 122

For office use only

Health Department / Director Review Signature:  4/20/26	<input type="checkbox"/> Approved – forwarded to Board of Health
	<input checked="" type="checkbox"/> Denied – letter forwarded to owner <i>see Attached denial letter</i>

Board of Health Meeting

Date: _____

Approved Denied

Comments: _____

Signatures:

Elizabeth Rist, PA, Chair

Steven Coughlin, Member

Samatha Maider, Member