

TOWN OF WELLESLEY

PRINTED MATTER VENDING MACHINE REGULATIONS
(as amended June 25, 2007)

(In accordance with the Town Bylaws, Article 49, Police Regulations, Section 49.2A, Printed Matter Vending Machines in Public Ways and Places)

Bylaw as stated:

49.2A. Printed Matter Vending Machines in Public Ways and Places. No person shall place, install, use or maintain a vending machine for the purpose of distributing printed matter in a public way or place except according to regulations for the same as shall be promulgated by the Board of Selectmen. Said regulations may include but shall not be limited to dimensional and design criteria; siting requirements; insurance and indemnification; and administrative fees and review process. Whoever violates any provisions of this bylaw or the regulations promulgated by the Board of Selectmen under the authority hereof shall be liable for a fine of \$10.00 for each offense, each day any violation continues to constitute a separate offense.

Be it hereby established by the Board of Selectmen, of the Town of Wellesley, as follows:

Whereas, the proliferation of printed matter vending machines (newspapers, real estate guides, periodicals, free advertisements, etc.) in the Town of Wellesley may often block crosswalks and handicap ramps, unreasonably impede access for the use and maintenance of poles, posts, traffic signs or signals, hydrants and mailboxes, unreasonably obstruct the flow of pedestrian and vehicular traffic, unreasonably obstruct access to taxi cab stands, loading zones and fire lanes, impede emergency snow removal operations, create undue nuisances to passers by in bad weather and storms, and otherwise unreasonably reduce the usable width of sidewalks, streets and alleys, thereby unreasonably restricting public access and creating undue perils and public safety hazards; and

Whereas, printed matter vending machines are often not properly maintained and are allowed to deteriorate, and fall into states of disrepair in which they collect trash and other debris, become covered with graffiti, are tipped over, cause damage to curb, sidewalk and street material, poles traffic signals and signs, and or remain empty and abandoned; and

Whereas, reasonable standards for the placement and maintenance of printed matter vending machines in the public way will allow for unrestricted access to crosswalks and handicapped ramps and further provide for pedestrian and driving safety and convenience by alleviating unreasonable interference with the flow of pedestrian and vehicular traffic, allow for reasonable access and use of poles, posts, traffic signs and signals, hydrants and mailboxes, bus stops, taxi cab stands, loading zones and fire lanes, provide for the safety of the public and protection of property during times of snow emergencies and other bad weather conditions, and reduce the potential for creating perils in the way of passers by, safety hazards and visual blight that are associated with poorly maintained or abandoned vending machines.

Therefore, be it established:

Section 1. Definitions

The following terms will have the following meanings, when used in these regulations:

- a. *Selectmen* shall mean the Board of Selectmen, of the Town of Wellesley. The Selectmen have jurisdiction over the public ways in the Town of Wellesley.
- b. *Director* shall mean the Executive Director of General Government Services, of the Town of Wellesley, or some such person designated by said Director from time to time.
- c. *Vending machines* shall mean any machines that distribute, printed matter of any kind, either freely or at a cost, such as but not limited to newspapers, real estate guides, periodicals, and weekly advertisements.
- d. *Distributor* shall mean any person, corporation, or any other legal entity, which has controlling interest over aforementioned vending machines.
- e. *Certificate of Compliance* shall mean the Certificate of Compliance that is issued by the Selectmen to said vending machine distributor, in accordance with these regulations.
- f. *Group(s)* shall mean a maximum of five (5) vending machines placed adjacent to each other.
- g. *Public Way* shall mean any public way dedicated to public use, in the Town of Wellesley, under the authority of the Board of Selectmen.

Section 2. Certificate of Compliance

- a. *Requirement.* Any person interested in placing, in whole or in part, a vending machine on a public way in Wellesley is required to obtain a Certificate of Compliance from the Director, in accordance with these regulations.
- b. *Limit.* Only one (1) Certificate of Compliance shall be required for each distributor, regardless of the number of vending machines that said distributor wishes to place on the public way.
- c. *Issuing Authority.* The Director shall be the issuing authority and will coordinate the application and administrative process of these regulations.
- d. *Application.* Distributors applying for a Certificate of Compliance will need to fill out an application form provided by the Director.

e. *Application Process.* The application shall describe in detail, the number, location and type of vending machines for which the Certificate of Compliance is being sought. Said application will include the following:

1. the name, address and telephone number of the applicant who is the owner/distributor or any other person(s) who is principally responsible of the vending machine(s); and

2. the name, address and telephone number of a person (if different from applicant) that the Town may notify and/or contact at any time concerning the applicant's vending machine(s). This person would be responsible for receiving Town correspondence, whether it be complaints, violation notices or general information.

3. the number of vending machine(s) and a detailed description of the proposed location of said machine(s).

4. a certificate of insurance naming the Town of Wellesley as a additional insured in an amount sufficient to indemnify the Town and hold it harmless from any and all claims or judgments for personal and bodily injury, including death, or property damage and from costs and expenses to which the Town may be subjected or which it may suffer or incur by reason of the design, placement, installation, operation or maintenance of any of the applicant's vending machines. Reasonable evidence of self insurance coverage may be substituted by the applicant for the certificate of insurance. Insurance under this section shall run continuously with the presence of the applicant's vending machine(s) in the Town of Wellesley's public ways and any termination or lapse of such insurance shall be violation of these regulations, subject to appropriate remedy under Section 5 of these regulations; and

5. the applicant should certify that the proposed location(s) for the vending machine(s) identified on the application are in compliance with these regulations.

f. *Approving Authorities.* Upon receipt of the application, the Director should obtain the approval of the Department of Public Works, Municipal Light Plant, Fire Department and Police Department for the information outlined by the applicant, in order to confirm compliance with these regulations.

g. *Issuance of Certificate of Compliance.* Upon receipt of the approval from the above noted authorities, and upon determining that the applicant is in compliance with these regulations, the Director shall issue a Certificate of Compliance to the applicant. The Director may grant any portion of the application, if the entire application does not comply with said regulations.

h. *Authorization Sticker.* Upon issuance of the Certificate of Compliance, the applicant will receive an authorization sticker for each vending machine approved by the Director. This sticker should be placed in plain view on the top of the vending machine(s).

- i. *Placement of Additional Vending Machines.* At any time in the future, if additional vending machines are sought by a Certificate of Compliance holder, then the requirements outlined in this section still apply. Any additional machine(s) and their locale(s) should be attached to the original application as addendum. Also see Section 3b.
- j. *Denial of Certificate of Compliance.* If an application for the placement of vending machines is denied, the Director shall notify the applicant and cite the specific reasons for the denial. The applicant may submit an alternative application without having to pay another filing fee.
- k. *Annual Renewal Process.* On or before September 1 of each year, each Certificate of Compliance holder shall file a renewal application, which shall include an updated list of all the vending machine(s) installed or maintained in the Town by the holder.

Section 3. Fees

- a. The processing fee for an initial application for a Certificate of Compliance, or a renewal application, shall be fifty dollars (\$50.00). In addition, there shall be an annual fee of twenty five dollars (\$25.00) for each machine listed on the application. These fees shall be submitted when the application for the Certificate of Compliance or renewal application is filed.
- b. *Additional Vending Machines.* There will be no application processing fee charged to an existing Certificate of Compliance for the placement of additional vending machines, provided that the original fees detailed in Section 3a, and the annual fee for the additional machines, are paid. Also see Section 2i.
- c. *Penalty Fees.* See Section 5e.

Section 4. Placement

- a. The placement shall be within a public right-of-way or place, in an area with a commercial type of zoning such as Administrative/Professional, Business, Industrial or Transportation.
- b. The placement of any and all vending machines along sidewalks in Wellesley shall allow for a minimum width of six (6) feet for non-obstructed public travel.
- c. Each vending machine shall be free standing. It shall not be bolted, chained or otherwise attached to any public property, including but not limited to poles, posts, traffic signs or signals, hydrants, mailboxes, public trees or tree guards.
- d. No vending machine shall be attached, in any manner, to any other vending machine.

- e. No group of vending machines shall exceed nine (9) feet in length. Groups should be separated by a minimum of twelve (12) feet.
- f. No vending machine shall in any way be placed into, in whole or in part, any portion of any roadway.
- g. No vending machine shall be placed adjacent to any building.
- h. No vending machine shall be placed or maintained within:
 - 1. three (3) feet of any curb;
 - 2. three (3) feet of any crosswalk;
 - 3. fifteen (15) feet of any hydrant;
 - 4. five (5) feet of any driveway;
 - 5. three feet of any curb cut, including but not limited to, handicap access ramps;
 - 6. any bus stop, taxi stand, loading zone or fire lane.
- i. No vending machine shall be placed or maintained so it unreasonably impedes the passage of pedestrians and/or handicapped persons.

Section 5. Enforcement

- a. *Non-Conforming Vending Machines.* Any vending machine(s) found not to be in compliance with these regulations are subject to the enforcement provisions detailed in this section.
- b. *Confiscation.* When a vending machine is found not to comply with these regulations, the Town shall confiscate said machine(s), and the distributor of said machine shall be notified, either by phone, first class mail, or both.
- c. *Abandonment.* If a vending machine, for a continual period of seventy-two (72) hours, does not contain the printed matter it dispenses, it shall be deemed abandoned and will therefore be confiscated by the Town of Wellesley.
- d. *Lack of Authorization Sticker.* If a vending machine is found not to have a current authorization sticker, it will therefore be found in non-compliance, and shall be confiscated by the Town.
- e. *Penalty Fees.* When a vending machine is confiscated by the Town, the distributor will be charged a removal fee of twenty (\$20.00) dollars and a containment fee of ten (\$10.00) dollars per day. The maximum penalty fee shall be one hundred (\$100.00) dollars.
- f. After a period of thirty (30) days, if the distributor has not claimed the vending machine, it will be deemed the property of the Town of Wellesley.

Section 6. Severability

The provisions of these regulations shall be severable and if any section, part, or portion hereof shall be held invalid for any purpose by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining section, part or portion thereof.

We, the undersigned Board of Selectmen, hereby adopt these regulations:

Katherine L. Babson, Jr. Owen H. Dugan David J. Himmelberger
Katherine L. Babson, Jr. Owen H. Dugan David J. Himmelberger

Gregory B. Mills
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Harriet S. Warshaw
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Date: June 25, 2007