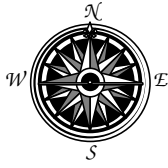


**ECONOMIC OPPORTUNITY IN BOSTON:
AN INDEX OF THE REGULATORY CLIMATE FOR SMALL ENTREPRENEURS**

Edited by David J. Bobb

Pioneer Institute for Public Policy Research
Boston, Massachusetts



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FOREWORD

Economic Opportunity in Boston: An Index of Economic Opportunity for Small Entrepreneurs provides a first look at the costs of regulatory mandates on small business in Boston. In the absence of other serviceable attempts to assess the consequences of regulatory barriers on small businesses, it seeks to establish a framework for measuring the cost of regulation and for weighing these costs against the benefits they may provide.

The preparation of the *Index* was motivated by the question of whether and to what degree an entrepreneurially inclined individual, who is able and hardworking, can succeed in Boston today. With a proud history firmly anchored in enterprise, New England—and Boston in particular—has long enjoyed the reputation of having provided a cultural and political climate beneficial to small entrepreneurs and promoting the mercantile talent of its citizens.

The evidence collected in this paper, however, attests to the fact that the regulatory system currently practiced in Boston has erected strict and expensive barriers to market entry that severely deter micro-level entrepreneurs. It shows that regulatory systems developed over time and at different levels of authority, and submits that political decision-makers are slow to adapt outmoded rules to current conditions. The paper further suggests that few, if any, public resources are devoted to tracking the effects of regulations that have been enacted and enforced. Faced with this evidence, we are left to conclude that existing requirements for small businesses, however ostensibly providing a public service, do not always follow a rational path nor do they encourage small-scale entrepreneurs to persevere and expand.

These developments are unfortunate and give reason for pause. A rich literature on entrepreneurship clearly shows that successful entrepreneurship depends not only on the talents and commitment of individuals, but on the cultural and political environment in which they live. Today, as in the past, the contributions of small entrepreneurs are vital for the creation and maintenance of a dynamic economy that serves the well-being and advancement of all. Hence, it is of great importance that an environment be maintained that is conducive to their activities.

Using the information the *Index* provides, we can begin to explore how a political culture can be forged that consistently fosters entrepreneurship in Boston and elsewhere.

Brigitte Berger, October 1999

Brigitte Berger is professor emeritus of sociology at Boston University and editor of *The Culture of Entrepreneurship* (San Francisco: ICS Press, 1991).

ACKNOWLEDGMENTS

In the spring of 1999, Pioneer Institute convened a group of public policy experts to explore prospects for an index of economic opportunity for the City of Boston. Thanks to each of them for early insights into how the project should proceed: Professor Amar Bhide, Harvard Business School; Jean DuBois, Dorchester Bay Economic Development Corporation; Howard Husock, JFK School of Government, Harvard University; DeWitt Jones, Boston Community Loan Fund; Adam Meyerson, Heritage Foundation; Kate Moriarty, Boston Advisors; Henry Olsen, Manhattan Institute; Samuel Staley, Reason Public Policy Institute; Ted Tyson, National Foundation for the Teaching of Entrepreneurship; and William Walczak, Codman Square Health Center.

Dana Berliner of the Institute for Justice conducted a study of Boston's regulatory environment in 1996, "Running Boston's Bureaucratic Marathon," that was useful in creating the Index. Thanks also to Professor Jeffrey Miron at Boston University and Robert Chatfield for helpful comments on an earlier draft.

Pioneer Institute staff are especially appreciative of the entrepreneurs who provided candid statements of their experiences in Boston. We are also grateful to the reviewers whose critical and constructive comments follow the paper.

At Pioneer, Research Associate David Bobb compiled the information, interviewed licensing applicants, and helped to prepare the text. Gabriela Mrad supervised the project, and Kathryn Ciffolillo edited the final draft.

EXECUTIVE SUMMARY

This first edition of the Index of Economic Opportunity seeks to quantify the regulatory barriers to opening a small business in the City of Boston. The underlying premise of the Index is that regulation of small businesses by state and city governments should seek to protect public health and safety without unduly limiting economic opportunity. Regulations that go beyond reasonable protection of public health and safety, whether administered at the state or city level, may actually compromise these goals. Procedures that are more arduous than necessary act as a disincentive to both compliance and entrepreneurship.

The Index was developed by surveying city and state regulations that apply to 15 occupations or business areas, including required licenses and permits, fees, and zoning ordinances. Specific business areas were chosen because they have historically required minimal capital investment and little formal education. These 15 occupations have in the past offered immigrants and others a means out of poverty.

Five questions were asked of each business area to determine whether a significant regulatory burden exists. “Yes” and “No” entries were made for each question in each business area. The calculated index of economic opportunity for 1999 is 44 percent, which represents the ratio of “No” entries (33) to the total number of entries (75). By the scale devised, a value of 100 percent indicates relatively unfettered economic opportunity, while values at the low end indicate that the regulatory barrier is significant and economic opportunity is severely restricted. The 1999 figure of 44 percent suggests that the 15 business areas surveyed have, on average, a medium level of economic opportunity. A comparable percentage figure for each business area can be estimated by multiplying the number of “N” entries by 20. For example, street vendors, with no “N” entries, have a level of economic opportunity equivalent to zero on this scale, while flower shop owners, who are subject to fewer regulations, have a level of economic opportunity equal to 80 percent.¹

The survey questions are as follows:

1. Is a license required by the state or city?
2. Is a special permit required by the city?
3. Is the business regulated by two or more agencies?
4. Is the application process burdensome?²
5. Is the zoning process for a home-based business burdensome?

¹ Given the limited number of questions asked, values calculated for individual business areas must be interpreted carefully. Substantial regulatory issues also exist for specific occupations, such as housing policies to regulate small property owners, and are not accounted for in this survey.

² This includes fees and mandated costs.

Table 1. Survey Data, by occupation or business area

Type of business or occupation	Questions					Economic Opportunity # of "N" entries (%)
	1	2	3	4	5	
Cleaning Services	N	N	N	N	N	5 (100)
Sewing/Alterations	N	N	N	N	N	5 (100)
Shoe repair	N	N	N	N	N	5 (100)
Small appliance repair	N	N	N	N	N	5 (100)
Flower shops	N	Y ^a	N	N	N	4 (80)
Home improvement	Y	N	N	N	N	4 (80)
Owner-occupied rental	N	N	Y	N	Y	3 (60)
Small grocery store	N	Y	Y	Y	NA	1 (20)
Catering	N	Y	Y	Y	Y ^b	1 (20)
In-home day care	Y	Y	Y	Y	Y	0 (0)
Take-out restaurant	Y	Y	Y	Y	NA	0 (0)
Taxicabs	Y	Y	Y	Y	NA	0 (0)
In-home food preparation	Y	Y	Y	Y	Y ^c	0 (0)
Beauty shops	Y	Y	Y	Y	Y	0 (0)
Street vendors	Y	Y	Y	Y	Y ^d	0 (0)

^a Special permits are required by flower shops if they wish to display flowers on the sidewalk in front of their stores.

^b All catering services in Boston must be based out of a restaurant. That catering from home is illegal counts for the purpose of the Index as a "Y."

^c All in-home food preparation for commercial purposes is illegal in Boston. "Y" responses are recorded in each category to indicate that it is illegal to prepare food in one's home to sell from home, at another place of business, or to another business.

^d Street vendors selling food are not allowed to base their operations out of a home. Instead, they must work from a city-sanctioned restaurant.

The survey and interviews with entrepreneurs and small business owners reveal regulatory costs that effectively limit access to ownership of taxicabs and hair salons, for example, and impede the growth of caterers, among others. When economic freedom is restricted in these areas of the entrepreneurial economy, the impact on urban neighborhoods can be especially adverse, as small businesses are a critical source of job creation in America's cities.

Pioneer Institute plans to build on the 1999 baseline data and update the Index annually. Over the long term, the Index will be refined to facilitate comparisons with other cities across the Commonwealth and around the country. Inter-city "snapshots" will allow urban policymakers to periodically assess the costs and benefits of the policies they develop and enforce. As data are collected for other cities, what is now a snapshot of regulations in one city may become a more comprehensive topographical map of urban economic opportunity. The intent is to provide a point of departure for critical analysis of state and city regulations—and encourage discussion of regulation among public officials and policymakers.

ECONOMIC OPPORTUNITY IN BOSTON: AN INDEX OF THE REGULATORY CLIMATE FOR SMALL ENTREPRENEURS

INTRODUCTION

The Index of Economic Opportunity provides a snapshot of the regulatory requirements for opening a small business in Boston. Reporting on a survey of 15 business and occupational areas that have historically provided economic opportunities for aspiring entrepreneurs, the Index seeks to identify barriers to marketplace entry and impediments to business growth. The Index looks at five different areas of regulation for each of the 15 business and occupational areas, fields of enterprise that for many individuals mark their first business ownership experience.

Entrepreneurial indices often strive to determine a city's entire business climate by including businesses ranging from high-tech start-ups to established financial firms with prospects for growth. Recent annual reviews of Boston's overall entrepreneurial environment have been mixed, as measured by Dun & Bradstreet for *Entrepreneur* magazine.³ These rankings rely on broad-based indicators of economic opportunity.

The aim of this Index is much more modest. It seeks not to study Boston's business climate as a whole, but rather one small but important sector: occupations that have historically required little formal training and a relatively small amount of capital expenditure. When economic opportunity is restricted in this area of the economy, the impact on urban neighborhoods can be especially adverse, as small businesses are a critical source of job creation in America's cities.

The underlying premise of the Index is that regulation of small businesses by state and city governments should seek to protect public health and safety without unduly limiting economic opportunity. Regulations that go beyond reasonable protection of public health and safety, whether administered at the state or city level, may actually compromise these goals. Compliance procedures that are more arduous than necessary act as a disincentive to both compliance and to entrepreneurship.

The Index of Economic Opportunity will allow state and city policymakers to assess whether the regulatory environment fosters or impedes the efforts of urban entrepreneurs. It will provide a point of departure for critical analysis of state and city regulations—and encourage discussion of regulation among public officials and policymakers.

³ For a report on the 1997 study, see http://www.entrepreneurmag.com/entmag/cities_intro.hts.

THE SURVEY

Description of Business and Occupational Areas

The following descriptions provide a brief summary of the 15 occupational or business areas surveyed, and the relevant state and city regulations that govern each.

Cleaning services that provide residential maid services, **sewing and alteration shops**, **shoe repair shops**, **small appliance repair shops**, and **flower shops** are not governed by any specific regulations.

Home improvement contractors are regulated under chapter 453, Acts of 1991, Massachusetts General Laws c 142A, 780 CMR-R6, and the Home Improvement Contractor Registration Office, which registers “all persons, individuals, proprietorships, partnerships, corporations, who solicit, bid on, or perform residential contracting as a contractor or subcontractor on an existing one to four-unit owner-occupied residential building.”

Owner-occupied rental property includes those who wish to earn money by renting three or fewer rooms in a house they own and occupy. A house with four or more unrelated people living together falls under Boston’s classification of a boarding house, a special zoning designation with its own set of rules and regulations.

Small grocery stores are mom-and-pop operations that sell limited foodstuffs, primarily non-perishable goods, and other convenience items. They are governed by state laws and municipal statutes, including extensive health codes at both levels.

Catering businesses must operate out of restaurants and cannot operate out of a home according to state regulations (Department of Public Health, Commonwealth of Massachusetts, 105 CMR, 590.033). Caterers must hold a “food establishment permit” for each city or town in which they will serve food. In Boston, restaurant operations (and thus catering businesses) are subject to extensive zoning and health codes.

In-home day care regulations enforced by the state allow for the care of up to six children. The state Office of Child Care Services presides over a complex application process, governed in part by state regulations, 102 CMR 8.00. A “Family Child Care Home” is defined as one in which “Any private resident that, on a regular basis, receives for temporary custody and care during part or all of the day, children younger than seven years old, or children younger than 16 years old if such children have special needs; provided, however, that the total number of children younger than 16 years old in a family child care home shall not exceed six, including participating children living in the residence. Family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.”

Take-out restaurants are subject to numerous special regulations. Zoning requirements are especially strict and difficult to negotiate. In addition, multiple permits, based on the type of food and drink to be served, are required. The state code, 105 CMR 590.000 - 595.000, governs all food establishments and has several specific sections on take-out restaurants.

Taxicabs are regulated primarily by the Boston Police Hackney Carriage Unit. A medallion is the license to own a taxicab. The Department of Public Utilities is responsible for setting the number of medallions that may be issued. Five associations of taxicabs collectively own about two-thirds of the medallions in Boston.⁴ Few taxicab drivers own medallions, since the price is often prohibitively high; instead they tend to lease from owners.

In-home food preparation of any kind for sale from or outside the home is illegal in Boston. The danger to the public health has been deemed by the city to be too great. As one official at the Inspectional Services Department explained, “We can’t have people selling sausages from their front yard.”

Beauty shops include hair services of various types and manicuring services, all governed under the Code of Massachusetts Regulations, 240 CMR 1.00-7.00 (June 1994). The requisite educational training of 1,000 hours (in an approved cosmetology program) qualifies the graduate to obtain an operator’s license, Type 2. With this license, the cosmetologist must work under a “manager” and cannot own or manage an independent operation. After two years of documented work experience, a Type 1 license may be obtained, with which a cosmetologist may operate independently. Manicuring licenses are available through training programs of 100 hours. Many additional hours of training are required to become a licensed barber, an occupation governed by another state agency, the Board of Registration of Barbers.

Hair-braiding is described by the Massachusetts Board of Registration of Cosmetology as a “sticky situation.” Requiring great skill and often taking up to eight hours for a single job, hair-braiding is not an officially mandated part of the cosmetology curriculum. Yet, citing the danger to public health if the hair-braider ventures into chemical treatments without proper training, the Board insists that all hair-braiders obtain the full cosmetology license.

Street vendors are heavily regulated by both the state and city. A “transient vendor license” is required by the Commonwealth for a vendor, the definition of which Massachusetts has made specific to Boston: a vendor is an “owner of the cart/business/corporation who either personally or through their employee(s) or agents engages in the sale of, offering to sell, displaying for sale, demonstrating, distributing sample of, solicitation or taking of orders for any goods or services in any public way in the City of Boston.”

⁴ Jennifer Merritt, “Minding the medallions,” *Boston Business Journal*, August 14-20, 1998, pp. 1, 40.

Outlaw Caterers

Business is good for caterers Abigail and Mary.⁵ With 32 part-time employees, they provide healthy American fare at residential and commercial gatherings in and around Boston. But the business would not exist at all unless Abigail had started catering from her home, away from the watchful eyes of the catering cops. Because Boston bans in-home cooking for purposes of retail sales, fledgling caterers operate “on the sly,” as Abigail explained. Having started the catering business from her kitchen, and then working from a church kitchen, Abigail emerged (along with business partner Mary) from the “underground” in November 1998. “Everybody starts off illegal in catering,” Abigail admitted, without hesitation. The start-up costs are simply too great to begin operations within a restaurant, as the Commonwealth of Massachusetts and City of Boston require of all caterers.

It takes time to establish a clientele and to build up enough business to justify the huge capital expenditure of opening a café or restaurant. The city’s ban prevents underground caterers from advertising openly. Relying only on word-of-mouth recommendations, they are faced with the same dilemma that confronts an unlicensed cosmetologist: either stay small—and illegal—or muster the cash and make the time to establish a “legitimate” business.

Abigail and Mary encountered numerous obstacles in attempting to open their business in time for the lucrative Thanksgiving and holiday season. After several trips to the offices of the Inspectional Services Department, and paying an attorney to expedite the licensing and permitting procedures, they were able to open on time. For the less than two months they were open in 1998, they paid the full \$525 in permit fees, as no pro-rated plan was offered by the city. After the first of the year they were again assessed a bill for \$525. Fortunately, their take-out restaurant facility had been previously zoned for a similar business. Having to obtain a zoning variance surely would have caused them to miss their opening deadline.

WHAT DOES THE INDEX INDICATE?

A low level of economic opportunity indicates that barriers to entry are considerable, with complex and costly licensure and permitting procedures mandated by both the state and the city. It is difficult, if not impossible, to operate a business from home (in those occupational areas in which the potential for in-home business operation exists). Regulatory burden on businesses is substantial.

A medium level of economic opportunity indicates that barriers to entry exist, with some overlapping regulation by the state and city. Application processes are unnecessarily difficult. Regulatory burden on businesses is moderate.

A high level of economic opportunity indicates that barriers to entry are minimal, or absent entirely. Where regulations exist, they are enforced and administered by one agency at one level of government (state or city). Regulatory burden on businesses is minimal.

SURVEY CATEGORIES

Five regulatory categories were researched for each of the 15 business areas. A “Y” indicates substantial regulation or burden imposed by the Commonwealth of Massachusetts or City of Boston on a small business. An “N” indicates that there is no such burden. The five questions are as follows:

1. Is a license required by the state or city?
2. Is a special permit required by the city?
3. Is the business regulated by two or more agencies?

⁵ The names of the business owners profiled have been changed to protect their identities. All of those profiled are currently operating in Boston, but wished not to have their names used since they have in the past operated illegally. All facts and quotations are reported exactly as told during interviews conducted in September 1999.

4. Is the application process burdensome?⁶
 5. Is the zoning process for a home-based business burdensome?

Table 1. Survey Data, by occupation or business area

Type of business or occupation	Questions					Economic Opportunity # of "N" entries (%)
	1	2	3	4	5	
Cleaning Services	N	N	N	N	N	5 (100)
Sewing/Alterations	N	N	N	N	N	5 (100)
Shoe repair	N	N	N	N	N	5 (100)
Small appliance repair	N	N	N	N	N	5 (100)
Flower shops	N	Y ^a	N	N	N	4 (80)
Home improvement	Y	N	N	N	N	4 (80)
Owner-occupied rental	N	N	Y	N	Y	3 (60)
Small grocery store	N	Y	Y	Y	NA	1 (20)
Catering	N	Y	Y	Y	Y ^b	1 (20)
In-home day care	Y	Y	Y	Y	Y	0 (0)
Take-out restaurant	Y	Y	Y	Y	NA	0 (0)
Taxicabs	Y	Y	Y	Y	NA	0 (0)
In-home food preparation	Y	Y	Y	Y	Y ^c	0 (0)
Beauty shops	Y	Y	Y	Y	Y	0 (0)
Street vendors	Y	Y	Y	Y	Y ^d	0 (0)

^a Special permits are required by flower shops if they wish to display flowers on the sidewalk in front of their stores.

^b All catering services in Boston must be based out of a restaurant. That catering from home is illegal counts for the purpose of the Index as a "Y."

^c All in-home food preparation for commercial purposes is illegal in Boston. "Y" responses are recorded in each category to indicate that it is illegal to prepare food in one's home to sell from home, at another place of business, or to another business.

^d Street vendors selling food are not allowed to base their operations out of a home. Instead, they must work from a city-sanctioned restaurant.

The Index of Economic Opportunity for Boston in 1999 is 44 percent. This number represents the average level of economic freedom for the 15 business or occupation areas and is derived by dividing the number of "N" entries (33) by the total number of entries (75). By the scale devised, a value of 100 percent would indicate relatively unfettered economic opportunity, while values at the low end indicate significant regulatory burden and severely restricted economic opportunity. The 1999 figure of 44 percent suggests that the 15 business areas surveyed have, on average, a medium level of economic opportunity. A comparable percentage figure for each business area can be estimated by multiplying the number of "N" entries by 20. For example, street vendors, with zero "N" entries have a level of economic opportunity equivalent to zero on this scale, while flower shop owners, who are subject to fewer regulations, have a level of economic opportunity equal to 80 percent.⁷

⁶ This includes fees and mandated costs.

⁷ Given the limited number of questions asked, values calculated for individual business areas must be interpreted carefully.

EXPLANATION OF SURVEY QUESTIONS

1. Is a license required by the state or city?

A “Y” entry indicates that a state or city agency (and sometimes more than one) requires an occupational license. Licensure requirements may entail specialized training in addition to mandated testing. For example, the Commonwealth of Massachusetts Board of Registration of Cosmetology grants licenses to cosmetologists only after an expensive training program has been completed. In the case of taxicab ownership, a special hackney driving license (with a cost of \$50, and annual renewal of \$12) and mandated training (12 hours) are required. But the medallion is the real license, the “coin of realm,” as the *Boston Globe* called it.⁸ In this realm the Boston Hackney Carriage Unit is king, and the price of the coin is high—the average cost of a medallion in the most recent offering by the city was \$166,000.⁹ (See below.)

No Medallion for the Little Guy

Robert Lynch dreams of owning his own business. While others might purchase property, or develop detailed business plans, Lynch must wait on a lawsuit. He is not seeking storefront property or a new Web site, but a taxicab medallion.

In 1988 Lynch hoped to move from being a part-time cab operator to being a cab owner. He applied to purchase a medallion, but discovered that 54 years of tradition was not about to be broken. Three years later, the state agreed to make 300 new medallions available (including 40 for handicapped-accessible vehicles). By 1995, the medallions had yet to be sold, and Lynch sued to expedite the sale. His suit was successful, but the delay tactics continued, as the Boston police commissioner’s appeals wound their way through the courts. By the fall of 1997, the state was once again involved—the legislature passed a bill providing for a new convention center in Boston that included estimated revenue of \$20 million from the sale of taxicab medallions.

After devising and implementing a complex auction process, the Hackney Carriage Unit sold 75 medallions in January 1999. The city helped to arrange financing for those who made it into the final rounds of consideration, and the medallions were sold for an average of \$143,000. The city set a bidding floor of \$95,000; the lowest successful bid was \$139,000, and the highest was \$152,000. Able to secure only \$50,000, Lynch was left out.

Lynch has filed suit again, alleging that the police commissioner failed to implement the 1997 court order that the medallions be sold with “reasonable dispatch.” The remaining 185 medallions are being auctioned in three rounds: 75 were released in September 1999, with the remaining 110 to be sold in 2000 and 2001. Each round has pushed the prices even higher, keeping a taxicab medallion well out of reach of the “little guy” and of Bobby Lynch.

The following agencies are involved in licensing:

- Board of Registration of Cosmetology, Commonwealth of Massachusetts
- Registry of Motor Vehicles, Commonwealth of Massachusetts
- Department of Public Utilities, Commonwealth of Massachusetts
- Home Improvement Contractor Registration, Commonwealth of Massachusetts
- Executive Office of Health and Human Services, Office for Children, Boston Regional Office, Commonwealth of Massachusetts
- Executive Office of Consumer Affairs, Division of Standards, Commonwealth of Massachusetts
- Hackney Carriage Unit, Department of Police, City of Boston

⁸ “In Boston’s taxi world, medallion is coin of realm,” Judy Rakowsky, *Boston Globe*, November 30, 1998, p. A1.

⁹ City of Boston, Taxicab Medallion Auction, September 17, 1999.

- Mayor’s Office of Consumer Affairs and Licensing
- Licensing Board for the City of Boston
- Inspectional Services Department, Division of Health Inspections, City of Boston.

2. *Is a permit required by the city?*

A “Y” entry indicates that one of the agencies of the City of Boston requires the business owner to purchase at least one permit¹⁰ to operate the business in Boston. State government agencies are generally not involved in the permitting process directly, although state statutes sometimes mandate permits that are administered at the municipal level, as is the case for catering permits.

As the Index shows, food service businesses are required to obtain permits from the city. In many cases, several permits are required. A small grocery store owner that wishes to sell take-out food of any kind (hot dogs or nachos, for example) must buy a \$200 permit. In addition, for example, he must purchase a retail food permit (at a price of \$50 per year) to sell perishable goods. To sell milk and ice cream, an additional permit with a fee of \$20 is required. A soft serve ice cream machine carries with it a \$65 price tag for inspection. Making coffee available for profit costs \$200. If the store (or restaurant) owner intends to play music, or have a television, the city charges an additional \$135 per year to the owner. (See appendix B.)

The following municipal agencies issue permits:

- Inspectional Services Department, City of Boston
- Inspectional Services Building Department, City of Boston
- Inspectional Services Department, Division of Health Inspections, City of Boston
- Inspectional Services Department, Division of Planning and Zoning, City of Boston
- Department of Public Works, City of Boston
- Mayor’s Office of Consumer Affairs and Licensing.

Much of the time and financial investment involved in obtaining permits stems from the large number of agencies involved and inspectors required. Different answers from different agencies to questions about the order of obtaining and filling out forms lead to delays and frustrations. Small business owners often hire an attorney to help them through the process of obtaining permits.

Caught in a Cosmetological Tangle

Bea has been braiding women’s hair since she was a young child. Having learned the intricate art from her mother in their native Ivory Coast, Bea upon moving to Boston braided hair for friends and neighbors. Recognizing a potential business opportunity, Bea began braiding hair out of her home. Her small enterprise flourished—illegally, according to state laws because she did not hold a cosmetology license. Fearing her business would be shut down, she spent between \$8,000 and \$9,000 to obtain it. After working under another

¹⁰ All unincorporated businesses in Boston must file a business certificate form with the Office of the City Clerk. A \$50 fee is assessed for each filing, with renewal required every four years. Because this permit and fee are required of all the small businesses in the Index and is not specific to a type of business, it is not counted here.

cosmetologist for two years, Bea was legally able to own and operate her own shop. When asked about the 1,000 hours of training with instructors not qualified to teach braiding, she replied, "Who's going to teach you?" The 'student' in this case has more than 25 years of experience braiding hair.

Seven years ago she opened a shop at which she could see more clients and hire other braiders to work with her. Her business has continued to grow: today she employs between two and five women during the week, and on the weekend her shop is filled with up to 10 braiders. But before she adds more employees and offers full salon service (other hair care services and manicures), she must confront a dilemma presented by the Commonwealth of Massachusetts. According to the laws administered by the Board of Registration of Cosmetology, once a beauty salon goes "full-service," all "operators" must be licensed with the state. Since most of the women employed by Bea are not licensed, expanding the business would jeopardize their employment, and Bea's primary source of her income, which continues to be hair-braiding.

The signals sent by the state to aspiring entrepreneurs like Bea are conflicted: either stay small—and illegal—or expand and incur enormous (and often impossible) expense. At the same time Bea has been battling zoning challenges. Even though her present location has been zoned as a commercial site for many years, to complete her internal improvements, and make the official transformation from a braiding shop to a full-service beauty salon, she has found it necessary to hire an attorney.

Bea's experiences with the state and city have left her exasperated, but undeterred from making her business even better. Bea believes the 1,000 hours of training could be whittled down to two weeks, focusing mainly on sanitation issues. Hair-braiders should be exempted from the licensure requirement, since "We should have teachers who know what they're teaching."¹¹ Now, as Bea considers going for even more training to get her barber's license, she recommends the union of the two regulatory agencies, and a significant reduction in their duties. As they operate presently, Bea believes they serve mainly to "give money to the state," and to the cosmetology and barber schools.

The following is a listing provided by the Inspectional Services Department of requirements "needed to file a final certificate of occupancy" permit (which costs \$50, plus a sliding fee based on square footage for commercial areas):

- Building Card (with final signoffs)
- Inspection reports (electric, plumbing, carpentry)
- Fire Department report (as many as five tests)
- Licenses from Committee on Licenses (if the business has a garage)
- Final cost breakdown for project
- Boston Water & Sewer Commission Permit.

¹¹ An August U.S. District Court ruling for the Southern District of California provided an exemption for hair-braiders from the state-mandated training and licensing. The ruling does not impact Massachusetts, but perhaps sends a signal that the restrictions Massachusetts and more than 40 other states have on the books may be struck.

Business Assistance from the City of Boston

The City of Boston offers assistance to those wishing to establish a new business. Among the resources available are a single-page guide to the agencies to contact for permits and licenses and an information packet on “Starting a New Business in Boston.” The city also maintains a multitude of agencies designed to help small business owners. The Office of Business Development, Department of Neighborhood Development, Boston Local Development Corporation, and the Business Assistance Team at the Boston Empowerment Center all exist—according to an informational brochure published the Office of Boston Development—to “make the process of opening a business as easy as possible.”

Located in the federally designated Enhanced Enterprise Zone, the Boston Empowerment Center works in conjunction with the Small Business Administration, a federal agency, to provide a variety of services to small business owners in a single “one-stop shop.” The premise of the collaboration is that *centralization* of the small business services offered by governmental agencies—federal, state, and local (along with a few private groups and banks who receive federal or state subsidies)—will encourage business growth in the city. The collaboration does not address the tangle of licensing, permitting, and zoning regulations with which small businesses must comply.

3. Is the business regulated by two or more agencies?

A “Y” entry indicates duplicative regulation and overlapping agencies, which are consistently cited by small business owners as among the greatest obstacles to market entry. Significant delays, whether in obtaining zoning permits or licenses, result when multiple agencies regulate the same business. Sometimes the superfluous regulation exists between state and city agencies. Often a multiplicity of regulations exists at the city level.

Street vendors, to cite one example, before opening in Boston, or any other city in the Commonwealth, must obtain a license from the state, at the Executive Office of Consumer Affairs, Division of Standards. A license fee of \$100 is required, in addition to a bond form with proof of bonding or \$500 paid in lieu of the bond. The vendor must report to the state the type of merchandise that will be sold. (See appendix B.) After completing the application and licensing process at the state level, the vendor may initiate the process with municipal agencies (in Boston, or other cities in Massachusetts). If food or beverages are sold by the vendor, permits and health licenses are required from the Inspectional Services Department, and if propane or sterno is used in the vending operation, fire permits are required. If the vendor wishes to sell “potentially hazardous foods,” the City of Boston requires a “Food Manager Training and Certification Course,” with a fee of \$145. Special permits and regulations govern certain types of foods. (See appendix B.) For the tale of one vendor’s experiences in Boston, see below.

4. Is the application process, including fees and mandatory costs, burdensome?

A “Y” entry can indicate a lengthy or complex application form, a difficult application form, or excessive fees. The licensing guide published by the Office for Children for in-home day care providers is nine pages, for example, and the application itself is 10 pages (see appendix B).

An entrepreneur who must spend more than six months to meet the zoning requirements, or negotiate the licensing and permitting bureaucracies, is considered burdened. For the occupational areas surveyed, more than \$500 in mandated fees and costs is considered excessive.

On the Run: Selling Sausage in Boston

Wally has sold a lot of hot dogs in his life. He has been in the business of vending for 27 years and is still going strong. Known for his affable style in dealing with customers, Wally runs two hot dog carts in downtown Boston. Over the course of his career, he has attracted a loyal group of customers who emerge from their office buildings during the lunch hour to snatch up hot dogs by the hundreds.

Business has not always been so good for Wally. When he first started vending in Boston, he was, as he puts it, a “bandit.” His early career was spent evading law enforcement officials and the arcane laws (many of them originating in the 1930s) that governed his business in Boston. Arrested many times, mostly for “occupying the streets for the sale of merchandise,” Wally was hounded out of many “restricted areas,” including City Hall Plaza, Downtown Crossing, Fenway Park (when “everybody was illegal”), and elsewhere across the city. The rules made mobility of the pushcarts mandatory: the city required, and still requires, a vendor to move 200 yards after every sale. Wally found this rule simply impossible to obey. As he joked, he would have ended up rolling from Charlestown to Hyde Park every day.

Since the state and city have not changed the rule about mobility, Wally joined one of three associations of vendors, run under the auspices of the Boys and Girls Club (for vendors in the Boston Common), the Downtown Crossing Association, and the Haymarket Pushcart Association. There are very few vendors in Boston who are not members of one of the associations, although working within one requires an extensive application process and carries with it dues and fees that for smaller operators are not affordable. Owning a pushcart within the Downtown Crossing Marketplace, for example, costs between \$100 and \$1,000 monthly. Food vendors must pay an additional \$200 monthly; insurance is \$200 annually, and pushcart storage is \$4.50.

To avoid having to “hot dog” it all over town, Wally has, with “help” from the city, found a vending home. Many other vendors are not so fortunate and never have the opportunity to open their carts.

5. Is the zoning process for a home-based business burdensome?

A “Y” entry indicates that zoning regulations are burdensome for potential in-home businesses. City zoning ordinances properly keep some type of businesses out of residential areas, such as those that will be disruptive or create congestion problems for a residential area. Many businesses, such as cleaning services, home improvement contractors, and street vendors, do not require an extensive office operation and could effectively operate out of a residence without causing neighborhood disruption.

Especially burdensome are zoning regulations placed on in-home day care providers and cosmetologists who wish to operate out of a residence. Space requirements and “physical facility safety” mandates in the *state* code for child care operations run to several pages and detail everything from the number of flashlights the provider must possess to how telephones should be programmed. In-home day care licensors ensure that each day care provider can provide outside playspace of 75 square feet for each child, a regulation that makes licensed operation in an urban apartment nearly impossible.

A one-chair beauty shop in a residence is required by state regulations to be in a separate room equipped with a separate entrance (“clearly visible from the street”). A separate lavatory is

also required. Floor coverings, sinks, and the surface of the pathway leading from the street to the salon entrance are all subject to specific state guidelines and inspection.

The zoning process in Boston has become so complicated that the *Boston Globe* recently announced that Boston's Inspectional Services Department is offering free walk-in zoning clinics "in a bid to help residents navigate what has been a bureaucratic maze."¹²

CONCLUSION

A *Wall Street Journal* editorial observed, "Laws regulating the braiding of hair are but the tail end of a bureaucratic dinosaur that often blocks upward mobility among the poor."¹³ Clearly it is not the intent of state or city regulation to discourage small businesses or force them underground, yet anecdotal evidence abounds that this is, in fact, a frequent result. This initial Index of Economic Opportunity establishes a preliminary empirical measure of regulatory burden that is based on a survey of the procedures, permits, and fees required of small businesses in the City of Boston. The data collected will make policymakers aware of the direct effects of state and city regulations on potential entrepreneurs and those seeking to expand or move their businesses.

Pioneer Institute plans to build on the 1999 baseline data and update the Index annually.¹⁴ Over the long term, the Index will be refined and additional data collected to facilitate longitudinal analyses and comparisons with other cities across the Commonwealth and around the country.

Inter-city "snapshots" will allow urban policymakers to periodically assess the costs and benefits of the policies they develop and enforce. As data are collected for other cities, what is now a snapshot of regulations in one city will become a more comprehensive topographical map of urban economic opportunity. The intent is to provide a point of departure for critical analysis of state and city regulations—and encourage discussion of regulation among public officials and policymakers.

¹² "Clinic being offered on city zoning laws," *Boston Globe*, March 28, 1999, p. B2.

¹³ "Hair Raising," editorial, *Wall Street Journal*, September 1, 1999, p. A26.

¹⁴ Consideration of taxation policy may be added in the future, for example. Currently, the City of Boston imposes a personal property tax on tangible property not considered tools of a trade (carpentry tools, for example, are exempt) at a rate of \$37.04 on each \$1,000 of value. A city brochure offers a barber chair as an example of taxable property. Because a huge share of the \$85 million in personal property tax revenue collected comes from utility companies (a city official estimated it at upwards of 80 percent), the city has proposed to exempt all businesses with under \$10,000 of personal property. This exemption would relieve the city of the task of collecting 65 to 75 percent of the city's personal property accounts. More importantly, it would exempt small business owners from the tax, which in most cases amounts to between \$40 and \$60 annually.

APPENDIX A: REVIEWER COMMENTS

Pioneer Institute asked a group of public officials, urban policymakers, and policy analysts to comment on the Index of Economic Opportunity, its potential short-term impact and its significance in the long term. Their comments follow.

The Honorable Thomas Keane, Jr., Boston City Councilor

In an open and free market, an entrepreneur would face no non-market barriers to starting up and running a business. This ideal is rarely the case, however. Entrepreneurs trying to start businesses face numerous obstacles imposed by local, state, and sometimes federal regulators, including licensure requirements, insurance obligations, price regulation, and so on.

Some of the burdens that government puts on entrepreneurs are sensible. Regulations that focus on health and safety concerns, for example, are widely seen as the most easily justifiable. Other regulations, such as price and entry controls, are of the opposite extreme: instead of trying to protect consumers, these are regulations that serve to protect existing businesses from competition.

Reasonable or not, all governmental regulations impose burdens on entrepreneurs. It is particularly disturbing when those regulations put burdens on entry-level businesses. These are the kinds of businesses that those on the lower rungs of the economic ladder would be most likely to start; these are the kinds of businesses that most frequently serve as a vehicle out of poverty and dependence.

To date, there has been strong anecdotal evidence that Boston's regulatory burdens on entrepreneurs are heavy. This report is an important effort to document regulatory burdens in a systematic fashion. The Index is admittedly a first step in trying to assess these burdens comprehensively. Particularly novel is its effort to tie regulatory burdens to a numerical indicator that assesses the city's level of economic opportunity. High regulatory burdens result in low economic opportunity; minimal burdens mean that there is a high level of economic opportunity.

In future versions, the following areas could be explored. First, the Index uses a series of questions ("Is a license required?" "Is the business regulated by two or more entities?" etc.), each of which is given equal weight. It is by no means clear to me that each should receive equal weight: for example, a license requirement and a burdensome application process are both weighted the same. In the real world, the latter is more likely to deter an entrepreneur.

Second, I am not persuaded that the questions used by the Index are the best way to measure regulatory burdens. Regulations can be thought of in two ways: their purpose and their efficiency. The purpose of regulation ranges from a focus on health and safety issues to an effort to limit competition. The efficiency of regulation relates to whether it accomplishes its objective reasonably. Thus, modest levels of insurance for street vendors may be justified; requiring \$500,000 in coverage is probably not

reasonable (and indeed, may suggest that the real intent behind an insurance requirement is to limit competition). I would suggest the Index incorporate measures that examine the purpose and efficiency of regulations in assessing how much economic opportunity is hampered.

Finally, the Index will only succeed as a measure of opportunity when it has developed a database of other cities and towns against which Boston can be measured. The ranking of Boston at 44% is hard to justify, since there are no other cities or towns against which Boston can be compared.

These criticisms aside—and they really only amount to suggestions for how to expand and improve the Index—the Index can become a critical tool for policymakers who are concerned about maximizing economic opportunity for our citizens.

*Samuel Staley, Director, Urban Futures Program, Reason Public Policy Institute
Los Angeles, California*

Most start-up businesses are blissfully unaware of the effects of local laws ordinances, until the angry neighbor or overzealous zoning inspector take an interest. Then, entrepreneurs find themselves negotiating an extraordinary maze of red-tape, rules, and arbitrary administrative decisions. A most frustrating aspect of this process is the lack of accountability or performance-based approach to regulating home-based businesses.

In principle, all the businesses could begin at home. Few businesses have the financing to start up with complete staffs, workshops, and office area. Technology is making it even easier—sometimes necessary—to start up a business from home: cell phones and pagers give businesses mobility, computers allow information to be stored efficiently and in small areas.

Local zoning codes, however, often hamstringing the start-up of a small business and limit its potential to expand and grow. Boston's Article 80 defines an "Accessory Home Occupation" to include "sewing, piano lessons, tutoring, and similar uses which are clearly incidental to the dwelling for dwelling purposes and do not change the character thereof." While seemingly unobjectionable, this definition hides many other potential pitfalls. For example, Article 10 of Boston's Zoning Code specifies that home-based businesses cannot:

- use more the 25 percent of the floor area (or rear yard) of the main building (or lot) for business purposes (Section 10-1)
- be visible in front or side yards (Section 10-1)
- employ anyone not living in the home (Section 10-2)
- maintain inventory (Section 10-2)
- use windows to display or advertise to attract customers other than "professional announcement signs" (Section 10-2)
- conduct a business office open to the public (Section 10-2)

- have public access or generate traffic flow as a result of the business.¹⁵

For example, Boston's zoning code prohibits any business with an employee who lives outside the home. Importantly, the zoning code does not prohibit multiple employees. A business can pay a secretary, receptionist, or book keeper as long as they reside in the home. Whether the employee lives in the home or not, the impact on the neighborhood is virtually nonexistent.

A home remodeling contractor could not operate from his home if clients came to the home to inspect blueprints or go over cost estimates for jobs or if he/she uses mechanical or electrical equipment that is not normal for domestic use, or stores materials exceeding the 25 percent space limitation. A catering business, a retail store, and nail salon/beauty shops would find these regulations difficult as well.

As a result, businesses that could be easy to start up and require few capital costs end up eating up revenues in commercial office rent, commuting time, duplicative utilities and telephone expenses, and numerous other restrictions. When combined with more specific licensing regulations for individual businesses, the costs can easily become prohibitive. These regulations also limit the ability of small businesses to expand and encourage them to stay underground.

Businesses are restricted in residential neighborhoods because most zoning codes presume that homes and commerce are fundamentally incompatible and should be segregated. By keeping commercial business outside of residential areas, spillover effects such as noise, traffic, and pedestrian activity can be minimized. Yet, local zoning directs their regulations at the characteristics of the business, not their effects. A more appropriate way to regulate home-based businesses is to focus regulatory activity on impacts: does the business create negative, measurable, and tangible impacts on neighbors or overburden infrastructure? Do employees create burdensome traffic volumes that impact public safety? Does the business create excessive noise that negatively impacts the quality of life of neighbors?

Moving to a regulatory system that combines performance and impact measures for assessing the suitability of business to a residential neighborhood would avoid excessive red tape and over-regulation of home-based businesses.

Professor Amar Bhidé, Harvard Business School, Cambridge

This report is an important first step and presents huge opportunities to do cross-sectional and longitudinal studies. For example, it might be interesting to show whether the economic opportunity score correlates with more robust economies and whether there is an inverse correlation between the score and public health and safety outcomes. In the meantime, it provides some data and a simple measure about a critical and severely understudied social issue.

¹⁵ Jeffrey Hampton, Zoning Administrator, City of Boston, interview with David Bobb, August 27, 1999.

Henry Olsen, Executive Director, Center for Civic Innovation at Manhattan Institute

Given the wide differentials in regulation, with some occupations being virtually unregulated while others are at the other end of the spectrum, a cross-city comparison will help ascertain whether cities that have lax regulations actually see more legal activity in those fields.

The basic strength of the report is presenting prima facie evidence that regulation of businesses must be examined as part of a city's economic development program. By doing this, it is likely to start a dialogue on the relationship between small businesses and the state and municipal authorities that oversee their operations. Those disagreeing with the Index will, in turn, be compelled to show that these barriers do not suppress economic activity. Boston will be better off if this dialogue takes place.

Ted Tyson, New England Divisional Director, National Foundation for the Teaching of Entrepreneurship, Babson Park, Massachusetts

Clearly, this report should spur similar research on regulations. On a more immediate level, you ask, How can we make permitting easier? Why can't we sell food made at home? Does it really constitute a health risk? The information in this paper should challenge city officials to make it easier for low-income entrepreneurs to start their own businesses. Right now, it is easier to do an IPO for an Internet start-up than to braid hair legally. Questions that need to be looked into in future editions of the index are socio-demographic profiles as they relate to business formation issues.

APPENDIX B: APPLICATIONS AND PROCEDURES



In order to obtain a Health Permit from the Inspectional Services Department for Mobile Food vehicles and pushcarts, the following procedures must be completed before the inspection.

If you are vending on a public street, you must go to Police Head Quarters, 199 Columbus Avenue, Boston, MA., (617) 343-4425 to find out where you can vend in Boston. Some areas in Boston are restricted.

You must obtain a Hawkers and Peddlers license from the Division of Standards, One Ashburton Place, 11th Floor, Boston, MA (617) 727-3480.

If you are vending on a public sidewalk or property, you must obtain a permit from the Department of Public Works, RM.714, City Hall, Boston, MA (617) 635-4911.

If you are vending in a restricted area, you must provide proof of permission from the organization in charge of the area.

If you are vending on private property, you must obtain a Use of Premises Permit from the Inspectional Services Building Department, 1010 Massachusetts Avenue, Boston, MA (617) 635-5300.

You must provide a letter, on letterhead stationery from a licensed food establishment stating that you have permission to store the mobile unit, all food, clean and sanitize the unit and equipment at the establishment.

You must complete a Health Application which can be done at the time of your inspection. The Health Division inspects mobile units Monday – Friday, between 8:00 am – 9:00 am (except Holidays). We are located at 1010 Massachusetts Avenue, 4th fl. Boston, MA (617) 635-5326. Mobile Food Permit fees are \$100 and \$20 each if you sell milk and/or ice cream. There is a \$65 manufacturing if the ice cream is coming out of a soft serve machine.

If you sell potentially hazardous foods, you are required to attend the City of Boston's Food Manager Training and Certification Course. The fee is \$145 and check is made payable to the instructor.

After you pass the Health Inspection, if you are using open flame or propane you are required to obtain a permit from Fire Headquarters, 115 Southampton Street, Boston, MA (617) 343-3550.

Question:

May sausage be sold on a modified pushcart?

Answer:

Section 590.029 of the Massachusetts Food Establishment Regulations limits food preparation on pushcarts to frankfurters. Modified pushcarts with features similar to those found on mobile food units, however, are now available. These pushcarts have water systems, waste retention systems, warewashing and utensil sinks and handwashing sinks. Some also have mechanical refrigeration.

Modified pushcarts go well beyond the basic pushcart defined in the Food Establishment Regulations in terms of the equipment installed. We believe that sausages can be prepared safely on these modified pushcarts with proper food handling and sanitation practices and proper personal hygiene. Modified pushcarts must be limited to the preparation of sausages and frankfurters and must operate and comply with section 590.029 (A), (B), (C), (D), (E), (F), (G), (I), (J)(3) and (K) of the Food Establishment Regulations. The carts must be equipped with at least a two-compartment sink and a separate handwashing sink provided with hot and cold running water under pressure, soap dispenser and single use towels. The minimum size of the sinks should conform with the recommendation of the American National Standard/National Sanitation Foundation (ANS/NSF) Standard 59-1986 entitled Food Carts. General construction of the pushcarts should also conform to the ANS/NSF standard, except as required by the Massachusetts Food Establishment Regulations.

Each local board of health has the authority to decide whether to issue a permit to modified pushcarts serving sausages. In order to permit this operation, the board must issue a variance for each applicant as outlined in section 590.061 to allow for a two-compartment and for the preparation of sausages. We recommend that the permit to operate stipulate the food product restriction and any other conditions the board wishes to apply.

Although not addressed in the Food Establishment Regulations, menu statements, signs, or other means of food identification must reflect the type of product being prepared and sold.

590.029: Mobile Food Units and Pushcarts

- (A) **General.** Mobile food units and pushcarts shall comply with the requirements of these regulations except as otherwise provided in this 105 CMR 590.029. The board of health may impose additional requirements to protect against health hazards related to the conduct of the mobile food unit or pushcart and may prohibit the sale of some or all potentially hazardous foods.
- (B) **Limited Services.** Pushcarts shall be limited to serving non-potentially hazardous foods or wrapped food prepared at a licensed food processing or food service establishment or retail food store and maintained at proper temperatures or limited to the preparation and service of frankfurters.
- (C) **Single Service Articles.** Mobile units or pushcarts shall provide only single-service articles for use by the customer.
- (D) **Water System.** A mobile food unit requiring water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing and handwashing in accordance with 105 CMR 590.005, 590.013 and 590.019. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of 105 CMR 590.012 and 590.015 through 590.017.
- (E) **Waste Retention.** If liquid waste results from operation of a mobile food unit the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.
- (F) **Toilets.** Operators of mobile food units and pushcarts shall obtain the use of adequate and suitable toilet facilities where hand-washing facilities are available. No such operator shall return to his work after using the toilet without first thoroughly washing his/her hands.
- (G) **Sanitary Operations.** The truck, wagon, or other vehicle mobile stand or pushcart shall be clean and in a sanitary condition. It shall be so constructed and arranged that food, drink and utensils will not be exposed to insects, rodents, dust, or other contamination. Only food free from adulteration shall be sold or served. All articles of food and all food shall be served in clean single-service containers. All sandwiches, pastries, and other such items of food shall be wrapped in a clean sanitary outer wrapping and shall be protected from contamination until served. Adequate refrigerated compartments shall be provided on each mobile food unit in which to store such articles as meat sandwiches, salad sandwiches, and extra supplies of soups and other readily perishable foods. Cream, half and half, and non-dairy creaming and whitening agents shall be provided in single-service containers. Mobile food units designed to dispense hot foods shall be provided with suitable units to rapidly heat such foods and keep such foods hot until served. Kitchens or other food preparation areas where food is prepared for service in mobile food units and pushcarts shall comply with all the applicable requirements for food establishments.

- (H) Exemption for Certain Units. Mobile food units and pushcarts serving or offering for sale only frankfurters or food prepared, packaged in individual servings transported and stored under conditions meeting the requirements of these regulations, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment need not comply with requirements of these regulations pertaining to the necessity of water and sewage systems nor with those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at the base of operations.
- (I) Base of Operations.
- (1) Mobile food units or pushcarts shall operate from a fixed food establishment and shall report at least daily to such location for all food and supplies and for all cleaning and servicing operations.
 - (2) The food establishment used as a base of operations for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements of these regulations.
- (J) Mobile Food Unit Servicing Area.
- (1) A mobile food unit servicing area shall be provided at the food establishment and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart or where mobile food units do not contain waste retention tanks.
 - (a) The surface of the servicing area shall be constructed of a smooth nonabsorbent material such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.
 - (b) The construction of the walls and ceilings of the servicing area is exempted from the provisions of 105 CMR 590.022.
 - (2) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.
 - (3) The mobile food unit liquid waste retention tank where used shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with 105 CMR 590.016.
- (K) Identification of Mobile Food Units and Pushcarts. Mobile food units and pushcarts shall be identification i.e. person's name and/or business name and address in letters not smaller than three inches on the left and right door panels of the vehicle or on the left and right sides of the pushcart.

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CITY OF BOSTON



Nancy A. Lo
Director

George S. Alex
Deputy/Special Asst. Corp. Counsel

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Mayor's Office of Consumer Affairs and Licensing

APPLICATION FOR A NON-LIVE ENTERTAINMENT LICENSE

Please fill out the following application in its entirety and return the completed application with all requested documentation to the Licensing Division. Failure to complete the application or failure to submit all required documentation in a timely manner will delay the processing of your application. THIS APPLICATION IS VALID ONLY FOR THE FOLLOWING TYPES OF ENTERTAINMENT:

Please identify with a checkmark the entertainment for which you are applying:

- Radio
- TV(s)/Monitor(s), # of _____
- Cassette/compact disc player
- Widescreen TV (larger than 27"), # of _____
- Jukebox
- VCR
- Dartboard(s), # of _____

STATEMENT OF APPLICANT: Under the pains and penalties of perjury, I affirm that the answers contained in this application are true to the best of my knowledge and belief, and that there are no other indirect interests in this license other than those indicated in this application.

- 1. d/b/a (business name) _____ 2. Telephone (premises) _____
- 3. Business Name _____
- 4. Business Address _____
- 5. Name of individual signing application _____
- 6. Relationship to Business (please explain) _____
- 7. Home address _____ 8. Home telephone _____
- 9. Attorney's name _____
- 10. Attorney's address _____ 11. Attorney's telephone _____

DATE SIGNED _____
SIGNATURE OF APPLICANT _____

THOMAS M. MENINO, Mayor

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PART I
Business Organization

1. The business for which this application is being filed is a: {Please check the applicable section:}
- Sole Proprietorship (please state owner's name) _____
 - Partnership (list partners) _____
 - Limited Partnership (list partners) _____
 - Corporation name _____ (if the applicant is a corporation, give the name and home address of each officer, director and each shareholder and the amount of stock in the corporation owned by each. Submit cover sheet if necessary)
- _____
- _____
- _____
2. Employer I.D. Number _____
3. If new ownership, please indicate previous d/b/a , owner and date you assumed possession
- _____

PART II
Manager of Record

Please provide the following information on the proposed manager of record:

Proposed Manager of Record: _____

Home Address _____

Phone Number _____ Social Security Number _____

Date of Birth _____ Place of Birth _____

Mother's Maiden Name _____ Father's Name _____

WITHIN THE PAST SEVEN YEARS, HAS THE PROPOSED MANAGER BEEN CONVICTED OF A FELONY OR A VIOLATION OF A STATE OR FEDERAL NARCOTICS LAW? _____

PART III
Operation

Proposed Capacity of Premises _____ Number of Restrooms _____ Number of Egresses _____

Hours of Operation of AB/CV License _____

Proposed Hours of Entertainment _____

Please provide a copy of your current:

- Inspection Certificate
Inspectional Services-1010 Massachusetts Ave
- Fire Assembly Permit
Fire Department Headquarters-115 Southampton St.
- AB/CV License
Licensing Board, Boston City Hall, Room 809
- d/b/a Certificate
City Clerk's Office, Boston City Hall, Room 601
- Articles of Organization of the Corporation
Secretary of State's Office-1 Ashburton Place

Family Day Care 1 License Application

APPLICATION FOR
FAMILY DAY CARE LICENSE

Please Type or Print All Answers.

1 Information
About You

Please list the address where you will be providing family day care. If that address is different from your home address, complete the mailing address section.

Name _____ Date of Birth _____

Address _____
(Street) (Town) (Zip)

Telephone () _____ () _____
(Day) (Evening)

Do you live at this address? Yes No

Mailing Address _____
(If different from above) (Street) (Town) (Zip)

2. Household
Members

List every household member and any person regularly on the premises where you will be providing family day care.

Name	Date of Birth	Relationship to Applicant	Number of Hours Home During Day Care Operation

FOR OFFICE USE ONLY

Facility _____ Licensor Code _____ Expiration Date _____ Amount Received _____ Date _____

Family Day Care 2 License Application

3. License Status & Capacity

Refer to the licensing guide section titled "Number of Children" for more information.

How Many Day Care Children Do You Want To Be Licensed For? _____ (cannot exceed 6)

Are You Currently Caring For Children Who Are Not Related To You? Yes No

Will You Be Providing Any Evening, Night or 24 Hour Care? Yes No

More information can be found in the regulations in Section 8.09(8).

PREVIOUS OR CURRENT INVOLVEMENT WITH OFC

Have you ever:

- applied for a family day care license? Yes No
- applied for an approved assistant certificate? Yes No
- been issued a family day care license? Yes No
- been issued an approved assistant certificate? Yes No
- been issued any license or certificate by OFC for Group Day Care, School Age Child Care, or Substitute Care? Yes No
- been denied any OFC license or certificate? Yes No
- had any OFC license or certificate revoked or suspended? Yes No
- have you ever given up your day care license or certificate voluntarily? Yes No

Are you an approved foster care provider? Yes No

List the number(s) and expiration dates of any license or certificates you have held: _____

If applicable, please describe the reasons why your license or certificate was denied, revoked or why you gave up your license or certificate voluntarily: _____

4. Employment History and References

Unreturned reference forms can cause delays in your receiving your license. Please remember to:

- Let your references know that they will be receiving forms to fill out and return promptly.
- Use people who have known you for a year and have seen you caring for children.
- Provide the complete, correct address and telephone number for each reference.
- Do Not Use Relatives (including in-laws).

Family Day Care 3 License Application

EMPLOYMENT HISTORY AND REFERENCES

List all child care related positions you have held in the last five years. Babysitting experience and caring for children in your home are considered child care related positions and must be included.

Title of Position _____

Dates of Employment _____

Reason for Leaving _____

Name of Employer _____

Address _____

Phone Number _____

Title of Position _____

Dates of Employment _____

Reason for Leaving _____

Name of Employer _____

Address _____

Phone Number _____

If more space is needed, attach another piece of paper and follow the same format as above.

PERSONAL REFERENCES

Please ask two people other than relatives (this includes in-laws) who have seen you caring for young children and have known you for at least one (1) year to be a personal reference for you. Please list the individuals who have agreed to complete the reference form. Listing three persons may speed up the process.

Name _____ Name _____

Relationship to You _____ Relationship to You _____

Mailing Address _____ Mailing Address _____

Day & Evening Phone Numbers _____ Day & Evening Phone Numbers _____

Name _____ Relationship to You _____

Mailing Address _____ Day & Evening Phone Numbers _____

When your application is received a reference form will be mailed to everyone you listed in the employment history and personal reference sections.

Family Day Care 4 License Application

MEDICAL EMERGENCY BACKUP PEOPLE

List the names of two people who have agreed to assist you with the children in the event of an unanticipated medical emergency. If one of the two persons you list is a provider or an approved assistant, you must list a third person who is not a provider or an approved assistant.

Name	Town	Distance from Your Home (within 10 minutes)	Phone Numbers (must have a phone)
1. _____			
2. _____			
3. _____			

5 **Provider Qualifications**
 If you do not have at least a year's parenting experience, you will have to provide evidence of experience and training as stated in Regulation 8.04(2). If you have any questions, please call your licensor.

Experience: Complete information in each category you wish to be considered in meeting the experience requirement. Include the total number of MONTHS/YEARS and HOURS you have cared for children:

	Months/Years	Hours Per Week
Caring for your own children	_____	_____
Babysitting	_____	_____
Caring for other people's children in your home	_____	_____
Day care center, nursery school or kindergarten	_____	_____
Other: _____	_____	_____

Training: If you wish to use course work or a Certificate of Registration issued by the Office as a substitution for experience, please attach copies of the documentation. (Transcripts, Certificates of Training)

Family Day Care 5 License Application

INDOOR SPACE

1. Please describe the family day care residence: (e.g. single family, duplex, apartment, etc.) _____

2. Please identify all rooms to be used by family day care children (include kitchen). Only measure floor space which can be used by children.

ROOM	USE	SIZE	FLOOR LEVEL
<i>(exact measurements)</i>			

3. Describe the exits from your home (how many, where located). If passage through another individual's living space/dwelling is required, please note that information.

Family Day Care 6 License Application

OUTDOOR SPACE

1. Will you be using your yard for the outdoor play space for the day care children? Yes No

IF YES,

A. What are the measurements? ____ feet x ____ feet

B. Is it located on a busy street? Yes No

C. If the play space is fenced, please describe the height and type of fence: _____

IF NO,

A. Please state the name, size and distance from your home (must be within 10 minutes) of the park or other alternative play space you want approved: _____

2. Does your family day care outdoor play space or entry and exit from your home allow children access to: broken glass, construction materials, water, open wells, lakes, rivers, streams, peeling paint, brooks, wetlands, marshes, railroad tracks or any other hazards? Yes No

If yes, list all hazards: _____

How will you protect children from these hazards? _____

3. Do you have an above ground or in-ground swimming pool (not a wading pool)?

Yes No

If yes, please describe it and how you will make the pool safe and inaccessible to children: _____

4. Do you have an outdoor porch or deck, which is more than 3 feet from ground level at any point, that you plan to use for day care children? Yes No

Family Day Care 7 License Application

HOME SAFETY

1. What types of heating elements do you have? (check all that apply)

- Radiators, Hot Water Pipes Baseboards Gas on Gas Stove (heating)
- Space Heater Vents/Grates Fireplaces _____
- Coal/Woodburning Stoves _____

If you have anything other than baseboard or vents/grates, OFC requires that they be barricaded in a way that keeps children safe. Please call the Office for Children if you need a resource sheet.

How will you prevent children from coming into contact with any of the other heating elements? _____

2. Do you have firearms or ammunition in your home? Yes No

If yes, how are they made inaccessible to children? _____

3. Are smoke detectors located on each floor level of your home? Yes No

4. Do you have locks on bathroom & closet doors? Yes No

If yes, are they easily opened from both inside and outside?

Please explain: _____

5. Do you have well water? Yes No

If yes, refer to information on page 3.

6. Schedule of Activities

Regulation 8.09(2) has more information on what you should think about when planning daily routines and activities.

Describe in detail how you would spend your day with day care children. Include activities for all age groups, meals, snacks, diapering, toileting, outdoor play, and naps.

Family Day Care 8 License Application

7. Behavior Management

For more information, please refer to the Licensing Guide section titled "Behavior Management."

Describe in detail the steps you would take when disciplining children of various ages.

BACKGROUND INFORMATION

1. Are you, or any other person living in the home or regularly on the premises, currently under investigation for physical and/or sexual abuse or neglect of a child? Yes No
2. Have you, or any other person living in the home or regularly on the premises, ever been found to have physically and/or sexually abused or neglected a child? Yes No
3. Have you, or any other person living in the home or regularly on the premises, been identified to be the parent of a child who has been adjudicated (legally found) to be in need of care and protection? Yes No
4. Have you, or any other person living in your home or regularly on the premises, had a restraining order issued against you/them or requested a restraining order for protection?
 Yes No

If you answered **yes** to any of the above statements please explain: _____

5. Have you or any other person living in the home or regularly on the premises been convicted or have charges pending of:
 - a. an offense involving physical or sexual abuse of a child or adult? Yes No
 - b. an offense involving rape of a child or adult? Yes No
 - c. any other offense involving children? Yes No
 - d. any of the offenses listed in Appendix A of the Regulations? Yes No

If you answered **yes** to any of the above statements please explain: _____

Family Day Care 9 License Application



6. Are there any outstanding defaults or warrants against you or any adult household member or any adult regularly on the premises? Yes No

If yes, please explain: _____

7. Do you, or any other person living in the home or regularly on the premises, use alcoholic beverages, narcotics or other drugs to an extent or in a manner that impairs your ability to care for children properly? Yes No

If yes, please explain: _____

OPTIONAL APPLICANT INFORMATION

For statistical, planning, and referral purposes:

Language of applicant _____

Race/ethnicity of applicant _____

Family Day Care 10 License Application

PLEASE READ CAREFULLY AND SIGN BELOW

I am applying for a family day care license;

I have read the attached licensing guide and I specifically understand my responsibilities as a family day care provider regarding: supervision of children; disciplining children; protecting children from abuse and neglect; cooperation with the Office for Children during investigations of my day care, other responsibilities required by law, list of required notifications, numbers of children, approved assistants, household member assistants and emergency back up people;

I have read and understand the questions in this application. I have read over my answers to the application questions, and, to the best of my knowledge, the information I have provided and the responses I have given are true;

I understand that furnishing or making of any misleading or false statements or reports anywhere in this application is grounds to revoke, suspend, refuse to issue or refuse to renew a family day care license;

I have read 102 CMR 8.00 *Standards for the Licensure of Family Day Care Homes*; and I agree to operate my family day care home in compliance with the Office for Children Family Day Care Regulations.

Signed under pains and penalties of perjury:

Date

Signature of Applicant

TAX CERTIFICATION STATEMENT

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under the law.

*Signature of Individual or Corporate Name (mandatory)

By: Corporate Officer (Mandatory, if applicable)

**Social Security # (Voluntary) or Federal ID #

Date

* This license will not be issued unless this certification clause is signed by the applicant.

** Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Licensees who fail to correct their non-filing of delinquency will be subject to license suspension or revocation. This request is made under the authority of Massachusetts General Law c.62c s.49A.

WHITE PAPERS

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