

On April 21, 2017, I decided to try a new concept for the ice cream vendors licensed in the City of Biddeford. For the past several years there have been conflict between ice cream vendors were the Police Department and the Code Enforcement office have received calls from other vendors making complaints regarding a particular vendor North East Ice Cream LLC the vehicle was being operated by a Ryan Lowe.

My thought, if I assigned an area to each vendor it would keep the vendors separated reducing complaints or eliminating them all together. Each vendor would have an area for a week, rotating every week. The week would run Sunday through Saturdays. I split the coastal area into three sections each vendor having a section for a week and they would rotate at the end of that week to another section, giving each vendor a turn at Fortunes Rock Beach area, Biddeford Pool area and the Hills Beach area. The in town areas I left open so if a certain coastal area was slow the vendor if he or she decided could take a ride in town to sell their merchandise, but they had to adhere to the city ordinance, what area they could not operate in the town.

Scheduling areas would keep pedestrians, children safer keeping the vendors separated as you would not have the confusion of two ice cream truck close to one another kids in the excitement running possibly between trucks and into the roadway.

Receiving so many complaints regarding North East Ice Cream LLC, operator Ryan Lowe I researched complaints, photos, police reports and hand written complaint forms.

I found the following incidents:

August 16, 2009, 1400 hours, a formal complaint was made to the Biddeford Police Department by a Jennifer Farynaz a driver for Paradis Ice Cream (No longer a vendor in the city of Biddeford). The complaint driving to endanger involving North east Ice Cream LLC, Ryan Lowe. Short history, Paradise was stopped in back of North East Ice Cream, when she started to pull out into traffic, Ryan Lowe North East Ice Cream would pull out in front of her, this occurred approximately 10 times. A Police Officer did make contact with Mr. Lowe where Mr. Lowe was advised to pay more attention to his driving habits.

April 13, 2010, 1630 a formal complaint was made to the Biddeford Police Department by Robyn Parlin owner of Robyns Ice Cream, (Currently a licensed ice cream vendor in Biddeford.) The complaint was a Protection Order from Harassment Violation, involving North East Ice Cream and a manager of North East Ice Cream Jayson Klien (Protection from Harassment Order). The complaint was also about Northeast Ice Cream following her from stop to stop.

July 7, 2015 13:20 hours, as a Biddeford Police Officer, I am assigned to the Biddeford Code Enforcement Office, one of my duties is overseeing the licensing of the ice cream companies operating in Biddeford. It came to my attention that via Biddeford Animal Control Officer Garth Russell, that he observed a Good Humor Ice Cream Truck operating on Mile Stretch Road sending me a photo, the photo was of North East Ice Cream LLC. The operator of the ice cream truck. I checked through the Biddeford City Clerk's Office and found out that North East Ice Cream did not have a current business license to operate in Biddeford. I made contact with the owner Gerald Steritt made him aware of Northeast Ice Cream not being Licensed, North East Ice Cream, Gerald Steritt was issued a summons for operating without a business license. I went out to the Biddefordpool Bath House where I came across the North east Ice Cream truck, speaking with the operator Ryan Lowe, advising him he could not operate until he

obtained a business license, I was not finished speaking with Ryan Lowe, when he started to drive off with me on his truck, I ordered him to stop he refused, later a summons was issued to him for failing to stop for a Police Officer.

August 3, 2016, I received a walk in complaint from Sean Kelly, Kelly's Ice Cream Truck. Mr. Kelly was stating that he has had North East Ice Cream LLC, driver Ryan Lowe follows him around, when he stops Ryan pulls in front of him or right behind him, Ryan makes comments to Sean Kelly like "this is my beach buddy". His complaint states that the life guards at fortunes rocks tell customers not to do business with him but to go to the second truck (North East Ice Cream, Ryan Lowe).

With all the complaints that have been made the enforcement action that has taken place, the complaints of aggression of an ice cream truck driver, I was concerned with the public's safety. Children seeing an ice truck get excited run up to, possibly between these vehicles not thinking of other vehicles in the area. This is one of the reasons I decided to try scheduling areas for each company to be in. This I was hoping would keep the companies in different locations. The scheduling of areas is not an ordinance and could not be enforced, but would have to be voluntarily followed by all for it to work. Kelly's Ice Cream and Robyn's Ice Cream thought it was a good idea and would be fair to all. North East Ice Cream Ryan Lowe and Jerry Sterritt did not, and did not adhere to the schedule.

Because I could not get 100% cooperation, I discontinued the scheduling and asked the companies to be mindful and there is no need of two ice cream trucks to be in close proximity of one another as this could cause confusion, a hazard to children and adults approaching a vehicle.

Officer George Monteith



City Of Biddeford

Office of Code Enforcement

205 Main Street, Suite 104
Biddeford, Maine 04005
(207) 284-9236
(207)286-9382 (fax)

Violation Complaint Form

Date: 8/3/16 Complaint received by: Sean Kelly

Complainant's name: Sean Kelly Kelly's Ice Cream Truck Phone #: 207-787-1012

Complainant's address: 9 River Meadows Dr, Steep Falls, ME 04085

Address of complaint: _____ Map and Lot: Biddeford Pool,

Violation(s) reported: Please see attached emails describing issues encountered with Ryan from North East Ice Cream.

Owner/manager name: Sean Kelly Phone #: 207-787-1012

Address: 9 River Meadows Dr Steep Falls, ME 04085

Complainant's signature: *Sean Kelly*

below this line for office use only

Lead inspector: _____ Inspectors involved: _____

Results: _____

THIS FORM IS TO BE MAILED OR DELIVERED TO THE CODE OFFICE IN PERSON; IT IS NOT TO BE EMAILED



Sean Kelly <seang0310@gmail.com>

Some pics too

1 message

Sean Kelly <seang0310@gmail.com>
To: george.monteith@bpd.net

Tue, Jul 26, 2016 at 9:02 PM

Here are some pictures too.

Thanks,
Sean

This was taken out my back window.

Same day and time but taken from side mirror

His dog that is with him daily.

Sent from my iPhone

3 attachments



IMG_3564.JPG
118K



IMG_3563.JPG
167K



IMG_3546.JPG
116K



Sean Kelly <kellysicecreamtruck@gmail.com>

Video and some details around North East driver

1 message

Sean Kelly <kellysicecreamtruck@gmail.com>

Fri, Jul 29, 2016 at 9:03 AM

To: george.monteith@bpd.net

Cc: seang0310@gmail.com

Good morning George,

I believe I sent you the video and some pictures now of what the other driver has been doing. Can you please confirm that you received them? I had typed up an email with the video and sent it, but it doesn't show up in my sent items. So lets try this again.

The driver from North East drove by me at the bath house while I was already parked and said "this is my beach buddy". He then parked his truck right in front of mine at the first ramp at the bath house as you can see in the video. I thought there was a distance policy?

I wasn't being discreet when I took the video, so he saw me. The next day I get a call on my cell phone and its the driver from North East. He says "am I that pretty that you need to video tape me?" I said the town has rules in place and you're not following the rules, I will not let you bully me. He then hangs up on me. I'm not sure how he got my number. I suppose you could google it.

Another example that has happened recently. I was waved to stop by customers from their deck. They were walking over to my truck that was now parked on side of the road. Customers arrived to my window and as their looking at the menu, the other driver from North East pulls up behind me, and says something to them. He then backs up to the previous driveway. The customers who were standing at my truck, then say to me, " we're going to go to his truck" and they start walking over to him who is now parked at the previous driveway. Is this acceptable? For some reason he feels the need to follow me. If I see him parked at a location, I turn around and will go to a different area. Not him, he follows me.

Also, is he allowed to have a dog in his truck when selling? I've been waved to stop by customers only to have them say sorry, we thought you were the truck with the dog in it. "we will wait for him". This must be a liability? What if the dog should bite someone? What about folks that are allergic to dogs? Also its no place for a dog to be cooped up in a hot box truck all day, in my opinion.

Lastly the lifeguards at the big public beach at the Biddeford Pool. North East driver was behind me, I had pulled upto the 2nd set of stairs near the lifeguard podium. The two female lifeguards were instructing the customers that were coming up to "go down to the 2nd truck", so a bunch of folks listened and continued to walk by my truck and head down to his. A few did stop at mine, but a large group went to his. After the large group walked by mine, the lifeguards began to cheer and smile as they saw that what they said had worked. I have never met either one of these female lifeguards and have never talked to them before in my life. For them to judge me without even speaking to me and telling customers to avoid me is unacceptable. There job is to watch the public in the water to be sure nobody drowns.

I know that I am the new guy in the area, but there are rules that have been in place long before I arrived here. I will not be bullied by the North East driver or the lifeguards.

Thanks for your attention to this matter.

Sean Kelly

Kelly's Ice Cream Truck
207-787-1012



Sean Kelly <kellysicecreamtruck@gmail.com>

video 1 - July 17th

1 message

Sean Kelly <kellysicecreamtruck@gmail.com>

Mon, Aug 1, 2016 at 12:17 PM

To: george.monteith@bpd.net

Hi George, here is the first video of when Ryan from North East pulled in front of me and said "this is my beach buddy".

Sean

 **IMG_3543.MOV.mov**
6132K



Sean Kelly <seang0310@gmail.com>

Still doing it. Saturday July 30th at 1348

2 messages

Sean Kelly <seang0310@gmail.com>
To: george.monteith@bpd.net

Sat, Jul 30, 2016 at 1:55 PM

George this needs to be addressed. This behavior is unacceptable.

Thanks,
Sean

Sent from my iPhone

2 attachments**image1.JPG**
106K **Video.MOV**
1473K

Sean Kelly <seang0310@gmail.com>
To: george.monteith@bpd.net

Sun, Jul 31, 2016 at 10:15 AM

George another situation occurred yesterday (7/30/16) with the lifeguards at the Fortune's Rock beach.

Earlier this week the male lifeguard on duty came up to my truck and asked if I was going to "hook up" the lifeguards like the other driver does from North East. I told him, no because of what his female co-workers were doing, by telling customers to not go to my truck but go to his. Why would I give you free stuff when your staff is going out of their way to cause me to not make money. He said okay and walked away.

Now today, around 2:20 the same male lifeguard and one of the female lifeguards that was involved in telling customers to go to the North East truck were working at Fortune's Rock Beach. I worked my way up the beach as I usually do, I stopped at the last set of steps, which is near the lifeguard podium. My music was on and it was at about half of what is normally is as for volume. The male lifeguard comes up to the window and asks that I turn it down because "they're trying to listen to some Coast Guard transmissions". I said okay but as long as it works both ways. So as I am still parked there and now serving customers I see the other truck come by with his music blaring and the lifeguards were watching him and laughing, as I could see them through my back window. I couldn't see what the driver was doing because my back was to the main rd. I really feel like I am being targeted here by this driver and the lifeguard staff.

So about an hour later I went back to this beach and when I approached the same area, I parked and got out to ask the lifeguards if I could please have both their names. They both refused and I told them that I would be calling the Rec Department and City Hall on Monday. They still wouldn't budge, so I got back in my truck and left that area.

I am very frustrated by the behavior of these lifeguards. Their job is to monitor the water and protect the public, not dictate which ice cream truck gets what business.

As for the driver from North East, his behavior has gotten worse based on the video I sent you yesterday, where he deliberately pulled up within 10 ft of me and stole my customers. He bypassed the parking spot where you first pull in, before the first ramp to the beach and pulled up to me as you see in the video. He has no regard for the rules that the town has put in place. He knows I have video and he still acts like this. Something must be done.

Thanks for your attention to this matter.

Sean Kelly
Kelly's Ice Cream Truck
207-787-1012

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Sent from my iPhone



