



Medford City Council  
Medford, Massachusetts

## **Committee of the Whole, March 20, 2024**

### **City Council**

Isaac B. "Zac" Bears  
Anna Callahan  
Kit Collins  
Emily Lazzaro  
Matt Leming  
George A. Scarpelli  
Justin Tseng

This meeting will take place at 6:00 P.M. in the City Council Chamber, 2nd Floor, Medford City Hall, 85 George P. Hassett Drive, Medford, MA and via Zoom.

Zoom Link: <https://us06web.zoom.us/j/86082177197>

Call-in Number: +13052241968,,86082177197#

Broadcast Live: Channel 22 (Comcast), Channel 43 (Verizon), and medfordtv.org.

To submit written comments, please email [AHurtubise@medford-ma.gov](mailto:AHurtubise@medford-ma.gov).

### **CALL TO ORDER & ROLL CALL**

### **ACTION AND DISCUSSION ITEMS**

#### **20-020 - Offered by Former Councilor Knight**

Food Truck Ordinance

### **PAPERS IN COMMITTEE**

### **Adjournment**



Medford City Council  
Medford, Massachusetts

**MEETING DATE**

March 20, 2024

**SPONSORED BY**

**AGENDA ITEM**

**20-020** - Food Truck Ordinance

**FULL TEXT AND DESCRIPTION**

**20-020** – Offered by Councillor Knight

Be it Resolved that the Medford City Council move forward on the Food Truck Ordinance.

Councillor Knight moved for approval (Councillor Scarpelli second)—passed.

**RECOMMENDATION**

**FISCAL IMPACT**

**ATTACHMENTS**

1. Committee of the Whole Report I I I 423 Food Trucks
2. KP-#893437-v2-MEDF\_Food\_Trucks\_-\_Proposed\_Language

**20-020**  
**COMMITTEE OF THE WHOLE**  
**MEETING REPORT**  
**TUESDAY, NOVEMBER 14, 2023 @ 6:00 P.M.**

Join Zoom Meeting

<https://us06web.zoom.us/j/81308262745>

Meeting ID: 813 0826 2745

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Meeting ID: 813 0826 2745

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To participate remotely outside of Zoom, please e-mail [AHurtubise@medford-ma.gov](mailto:AHurtubise@medford-ma.gov).

Attendees: Council President Nicole Morell; Council Vice President Isaac “Zac” Bears; Councillor Richard Caraviello; Councillor Kit Collins; Councillor George Scarpelli; Councillor Justin Tseng; Councillor-Elect Emily Lazzaro; Councillor ElCity Clerk Adam Hurtubise; Interim Economic Development Director Viktor Schrader; Public Health Director MaryAnn O’Connor; Attorney Robin Stein, KP Law; other attendees as noted in the body of this report.

President Morell called the meeting to order on Tuesday, November 14, 2023, at 6:10 p.m. in the Medford City Council Chamber on the second floor of Medford City Hall, and via Zoom. The purpose of the meeting is to discuss the proposed Food Truck Ordinance (Paper **20-020**).

President Morell thanked participants for attending. She said that the Council last met on this in February. Director Schrader gave an update. Attorney Stein gave a briefing on what Massachusetts General Law allows.

Councillor Tseng arrived at 6:13 p.m.

Attorney Stein said that there are situations where Council permission and permission of City Departments would both be required to operate a food truck. She suggested amending the ordinances to say that nobody can put a food truck on city streets without Council permission. The Zoning Code currently says that breweries can have food trucks on site.

Councillor Collins arrived at 6:15 p.m.

Vice President Bears said that the intent is basically that we don't want people to need to come before the Council every time there is a one-day event in the City. He said some of this ordinance should probably be in the Board of Health regulations.

Councillor Scarpelli said that when this ordinance came before us, we were seeing the pandemic's effects on brick and mortar businesses. He said we do not want to see food trucks taking away from brick and mortar businesses. He said we don't want anyone to miss out on an opportunity but we don't want to hurt our brick and mortar businesses.

President Morell said the intent was to take what was in place and streamline it. She said taking this and moving it to the Board of Health would help with some of the time constraints between Council meetings. She said that the intent was to simplify the process.

Attorney Stein said that the biggest thing to address is that it's unusual for the Board of Health to decide the location of a food truck because the Council has jurisdiction over city streets.

Councillor Scarpelli suggested leaving the permitting process with the Board of Health. He said other municipalities use the Communications Department or the Recreation Director to do this. He said that there are departments in the City that perform permitting processes. He recommended that this question be given to the Administration to pinpoint the department and allow that department to determine the permitting process.

Attorney Stein said that this would be helpful in allowing her to make any recommended changes to the ordinance. She said food trucks would largely not be allowed to go onto private or municipal property unless it is a brewery.

Councillor Scarpelli said that these are one-day permits for special events. He said we are just protecting the long-term permitting process of a food truck anywhere in the City. He said we need to protect our brick and mortar businesses. He said we do not want

food trucks in a designated area at least for now, until we have security and growth in our business community.

Councillor Caraviello asked if food trucks pay a meals tax like brick and mortar restaurants pay. Attorney Stein said she didn't see anything in the ordinance on this. She said she could send updated language.

Vice President Bears said we have a draft that incorporates most of what we need right now. He said he didn't think we were going back and diving into any major questions at this stage. He said that there are questions on how much of this should be within Board of Health regulations.

Attorney Stein said she does not think the City should adopt a wholesale ordinance on food trucks. She said that it should be reviewed for compliance with applicable codes. She said she envisioned the next step being to work with the Board of Health to get regulations in place and then to make minor amendments to the existing City ordinances.

Vice President Bears asked if the intent is to have the City Council give permission for any event using city streets to occur. Attorney Stein read statutory language that suggested that the City Council would have to give approval for many events in the City. She said that this really comes down to who has authority to give permission to use the streets.

Councillor Scarpelli moved to request a report on the number of billable hours it will take KP Law to work on this ordinance at the completion of the ordinance (Councillor Tseng second)—approved.

Vice President Bears moved that legal counsel, the Health Director, the Interim Economic Development Director, and any departments the Administration deems necessary make recommendations to amend the ordinance and to create a Board of Health regulation that reflects the content or intent of this current draft (Councillor Scarpelli second)—approved.

Director O'Connor said her other concern is with breweries. She said that we will need a process or a permit if food trucks are at breweries long-term.

Attorney Stein said that the current definition of breweries has breweries producing food on site or that uses food trucks on site.

Vice President Bears said that if a food truck wanted to come to a brewery for a day, that would probably not be a problem, but if a food truck wanted to come to a brewery for 180 days, that might be a problem.

Councillor Tseng said that it looks like local food excise taxes should be included on what food trucks are paying. He said he would be open to asking for language on that in this legislation or in these regulations.

Director Schrader said he would follow up with additional information.

Attorney Stein said she wanted to review language allowing the City Council to issue a special permit. She said that she could also incorporate written comments.

Vice President Bears moved to keep the paper in committee, and further moved to adjourn, at 6:53 p.m. (Councillor Tseng second)—approved.

President Morell adjourned the meeting at 6:53 p.m.

## PROPOSED BOARD OF HEALTH REGULATION

**Commented [RS1]:** This would cover the Board of Health regulating for food safety/public health concerns.

### REGULATIONS TO ENSURE THE SANITARY AND SAFE OPERATION OF MOBILE FOOD VENDORS

#### I. Statement of Purpose and Authority:

In furtherance of its mission to protect, promote, and preserve the health and well-being of the City of Medford residents and pursuant to the authority granted to it pursuant to G.L. c. 111, §31, the Medford Board of Health enacts this Regulation to Ensure the Sanitary and Safe Operation of Mobile Food Establishments in the City of Medford as follows.

#### II. Definitions:

Board of Health: The City of Medford Board of Health.

Mobile Food Vendor: any person or business offering for sale any prepared or packaged food or beverages from a truck, cart, or other similar vehicle.

Mobile Food Vendor Permit or Permit: a permit issued by the Board of Health authorizing a Mobile Food Vendor to operate in the City of Medford.

#### III. Permit Required:

No Mobile Food Vendor shall operate in the City of Medford without a valid Permit issued by the Board of Health.

#### IV. Operations:

Mobile Food Vendors shall comply with the following and all applicable laws, ordinances, rules and regulations including without limitation, 105 CMR 590.000/FC2013, and General Ordinances Article IV – Polystyrene Containers, as they may be amended from time-to-time:

- a. Each Mobile Food Vendors shall offer a waste container for public use that the vendor shall empty at its own expense;
- b. The Mobile Food Vendor must keep an accurate log indicating that the mobile food truck is serviced at least twice daily by a mobile food commissary for all food, water and supplies and for all cleaning and servicing operations, including the emptying and cleaning of waste containers;
- c. A Mobile Food Vendor may not operate on public property, including public ways, unless it has obtained the necessary License from the custodian of that property;
- d. Mobile Food Vendors shall not cause unnecessary operation of the engine of a motor vehicle while the vehicle is stopped for a foreseeable period of time in excess of five minutes. This provision shall not apply to vehicles engaged in an operation for which the engine power is necessary for an associate power need other than movement and substitute alternate power means cannot be made

available provided that such operation does not cause or contribute to a condition of air pollution or excessive noise;

- e. Each Mobile Food Vendor must conspicuously display its Permit on the windshield of the truck from which food is sold;
- f. No Mobile Food Vendor may place any cooking, refrigeration, or other type of equipment or apparatus in areas outside of the truck;
- g. Mobile Food Vendors shall operate in a clean and sanitary manner and control waste and litter in a manner that complies with the directives of the Board. It shall be the responsibility of the Licensee to remove and dispose of, at its own expense, all waste containers that it provides for public use;
- h. Temporary power needed for vehicles (gas-powered or other powered devices) must be approved by the Fire and Health Departments;
- i. Licensees and mobile food trucks must adhere to the then applicable National Fire Protection Association food truck safety guidelines.

**V. Application Requirements:**

All applications for a Mobile Food Vendor Permit shall be made on the form provided by the Board of Health and shall include payment of the applicable filing fee and:

- a. A description of the business and a menu containing every food item that will be offered;
- b. Proposed hours of operation and a detailed schedule of times and locations where the vendor will be stationary and serving food;
- c. If associated with an event, a description of the event being attended, including the sponsoring individual or organization, organizers contact information, and dates and hours of operation;
- d. A plan for the control and elimination of litter;
- e. A description of any cooking equipment including gas tank size, all heating elements and devices;
- f. A description of any seating, or other type of equipment, apparatus, or furniture the vendor wishes to place on areas outside of the truck;
- g. A description of sanitary facilities and access to hand-washing facilities that will be available for the use of employees;
- h. Proof that at least one person operating the establishment is a Certified Food Protection Manager;
- i. Copies of allergy awareness certificate and ServSafe certificate;
- j. A copy of the Base of Operations/Commissary Food Service Permit, and a copy of the latest inspection report; and
- k. The Mobile Food Vendor's most recent pest control report.

**VI. Application Process**



VII. Appeals

VIII. Enforcement

IX. Severability

If any provisions, paragraphs, sentence, or clause of this regulation shall be held invalid for any reason, all other provisions shall continue in full force and effect.

**Commented [RS2]:** Are there existing processes that the BOH has for other licenses/permits that it wants to follow? If not, we can recommend language.

## PROPOSED AMENDMENTS TO CITY ORDINANCES

For existing Sec. 74-2, we suggest striking the underlined language and adding the bold language.

Sec. 74-2 – Use on streets or other public ways of amusement devices; sale of fruit and other **any** items.

No person shall expose in or upon any street, common or other public place, any table or device of any kind by or upon which any game of hazard or chance can be played. No person shall play any such game at such table or device in or upon any street, common or other public place in the city. No person shall place or keep any table, stall, booth or other item in any street in the city for the sale of fruit or other **any** items, without permission from the city council, **or its designee where applicable.**

Below is proposed new language:

Article \_\_\_\_\_, Division \_\_\_\_\_ – Mobile Food Vendors

### Definitions:

City Council Mobile Food Vendor Regulations: Regulations adopted by the City Council, which may from time to time be amended, applicable to a Mobile Food Vendor seeking to operate on any property under the care, control and custody of the City Council.

License: a One Day Mobile Food Vendor License or Special Event Mobile Food Vendor License.

Mobile Food Vendor: any person or business offering for sale any prepared or packaged food or beverages from a truck, cart, or other similar vehicle.

Mobile Food Vendor Permit: a permit issued by the Board of Health authorizing a Mobile Food Vendor to operate in the City of Medford.

One Day Mobile Food Vendor License: a license issued by the City Council or its **designee** allowing a Mobile Food Vendor to operate in the City of Medford on property under the care, control and custody of the City Council that is limited to no more than a one-day period.

Mobile Food Vendor Permit or Permit: a permit issued by the City of Medford Board of Health authorizing a Mobile Food Vendor to operate in the City.

Special Event Mobile Food Vendor License: a license issued by the City Council or its designee allowing a Mobile Food Vendor to operate in the City of Medford on property under the care, control and custody of the City Council relative to any for a festival, celebration, concert, or any similar occurrence or special event. The duration of the license may be for more than one day but no longer than the event itself.

### Permit and Licensing Requirements:

**Commented [RS3]:** If the City Council is intending to designate the licensing authority, it should do so for all application, not on a per application basis.

No Mobile Food Vendor may operate on any property under the control and custody of the City Council, including public ways, in the City of Medford without first obtaining a One Day Mobile Food Vendor License or a Special Event Mobile Food Vendor License from the City Council or its designee and a Mobile Food Vendor Permit from the Board of Health. All Mobile Food Vendors operating on such property are subject to the City Council Mobile Food Vendor Regulations and the City of Medford Board of Health's Regulations to Ensure the Sanitary and Safe Operation of Mobile Food Vendors, as may from time to time be amended. A Mobile Food Vendor seeking to operate on private property or public property that is not under the control of the City Council, as permitted by the City's Zoning Ordinance, shall require a Mobile Food Vendor Permit from the Board of Health. In addition, the licensing requirements of G.L. c. 101 and Article V, Division 2 of the City's General Ordinances shall apply to Mobile Food Vendors.

**Commented [RS4]:** You may want to review what City properties are under the control of other City departments/boards/commissions etc. and talk with those custodians about enacting a similar policy or regulation.

#### Enforcement

Each Mobile Food Vendor shall operate in compliance with all applicable laws, ordinance, rules and regulations. This Article, the City Council Mobile Food Vendor Regulations, the City of Medford Board of Health's Regulations to Ensure the Sanitary and Safe Operation of Mobile Food Vendors, and the conditions of any License or Permit granted thereunder shall be enforced by the City Council or its designee which may take any action available in law or equity, including seeking injunctive relief, to secure enforcement of and compliance therewith.

Any Mobile Food Vendor that violates this Article, the City Council Mobile Food Vendor Regulations, the City of Medford Board of Health's Regulations to Ensure the Sanitary and Safe Operation of Mobile Food Vendors or the conditions of any License or Permit granted thereunder may be subject to a fine pursuant to G.L. c. 40, §21D. The fine shall be \$\_\_\_\_\_ and each day the violation occurs shall be a separate offense.

Any Mobile Food Vendor that operates in the City, after the effective date of this Article, without obtaining the necessary License or Permit shall not be eligible to receive a License hereunder for one (1) year from the date of the unlicensed operation.

## CITY COUNCIL REGULATIONS OF MOBILE FOOD VENDORS

### Section 1: Purpose

The purpose of these regulations is to create a process by which the City of Medford City Council, or its designee, may allow Mobile Food Vendors to safely operate on property under the care, control and custody of the Medford City Council.

#### Definitions

The definitions contained in Division \_\_\_\_\_, Article \_\_\_\_\_ of the City's General Ordinances are incorporated herein.

### Section 2: Application Process for Mobile Food Vendors

- a. Any Mobile Food Vendor requiring a License pursuant to Division \_\_\_\_\_, Article \_\_\_\_\_ of the City's General Ordinances shall file with the City Council, or its designee, a complete application along with the required filing fee, on the form provided by the City Council, or its designee.
- b. The City Council, or its designee, shall hold a public hearing on each such application and may approve, approve with conditions or deny a License hereunder. Notice of the public hearing shall be provided to \_\_\_\_\_.
- c. In evaluating a Mobile Food Vendor's application for a License, the City Council or its designee, shall consider the public good and the general welfare and convenience of the community including:
  - i. Any impact on existing uses with respect to matters such as noise, traffic, congestion, odors, sanitary and waste disposal facilities, dust and fumes;
  - ii. The impact on any existing food service establishments abutting the proposed location of the Mobile Food Vendor and
  - iii. Compliance with all other applicable law, ordinances, rules and regulations.
- d. Prior to acting on an application hereunder, the City Council, or its designee, may seek advisory reports from City Departments, Boards and Commissions.
- e. Licenses approved and issued under the provisions of this regulation are specific to the applicant and the specific location proposed in the application and are non-transferable.

**Commented [RS5]:** Please confirm you want this to require a public hearing and if so what the notice requirements will be.

### Section 3: Application Requirements for Mobile Food Vendors

Mobile Food Vendors shall submit the following along with the completed application for a License:

- a. a description of the business and food items to be sold;
- b. proposed hours of operation and a detailed schedule of times and locations where the Mobile Food Vendor will be stationary and serving food;
- c. A description of any seating, or other type of equipment, apparatus, or furniture the Mobile Food Vendor wishes to place on areas outside of the truck; and

**Commented [RS6]:** I recommend reviewing the current requirements for outdoor dining and then we can make any necessary changes and add any necessary provisions.

- d. If associated with an event, a description of the event being attended, including the sponsoring individual or organization, organizers contact information, and dates and hours of operation;
- e. Proof of lease or rental of a garage or commercial parking space, if necessary;
- f. Proof of a valid local or state hawker's license, if required by G.L. c. 101;
- g. A copy of the Permit issued by the Board of Health;
- h. Proof of insurance

**Commented [RS7]:** What is the City requiring for outdoor dining?

#### Section 4: Operating Requirements

By applying for and obtaining a License hereunder, any Mobile Food Vendor agrees to be bound by and subject to the following License terms:

- a. Each Mobile Food Vendor shall operate in strict compliance with the terms of the License issued to that Vendor. No Mobile Food Vendor shall park, stand, or move a vehicle and conduct business within areas of the City where the license holder has not been authorized to operate;
- b. No Mobile Food Vendor shall provide any dining area(s), including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, unless a proposal for such seating arrangement is specifically authorized by the City Council or its designee;
- c. The City Council or its designee reserves the right to require a Mobile Food Truck Vendor to temporarily relocate if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit or for safety reason;
- d. Mobile Food Vendors may only operate at specifically approved locations at specifically approved times. No License shall be granted to operate within two hundred (200) feet of any k-12 public or private school between the hours of 8:00 a.m. and 3:00 p.m. on days when the school is in session. Said distance shall be measured from the boundary line of the lot on which the school is located.
- e. The issuance of a License hereunder does not grant to or entitle the Mobile Food Truck Vendor to the exclusive use of any service route or location, in whole or in part.
- f. Mobile Food Vendor's shall park all vehicles in a safe manner. Directives from a Police Officer regarding the safety of a parked vehicle shall be immediately complied with. Failure to do so may result in License revocation;
- g. Mobile Food Vendors shall not sell non-food items;
- h. Mobile Food Vendors shall not cause unnecessary operation of the engine of a motor vehicle while the vehicle is stopped for a foreseeable period of time in excess of five minutes. This section shall not apply to vehicles engaged in an operation for which the engine power is necessary for an associate power need other than movement and substitute alternate power means cannot be made available provided that such operation does not cause or contribute to a condition of air pollution or excessive noise;

**Commented [RS8]:** I recommend reviewing how the City is currently licensing outdoor dining and then we can make any necessary changes and add any necessary provisions. Is the City requiring a license to be signed for outdoor dining?

- i. Mobile Food Vendors must conspicuously display their license on the windshield of the truck from which food is sold;
- j. No Mobile Food Vendor may place any cooking, refrigeration, or other type of equipment or apparatus in areas outside of the truck;
- k. No mobile food truck shall be stationed on the street overnight or left unattended and unsecured at any time, unless approved by the City Council or its designee;
- l. Temporary power needed for vehicles (gas-powered or other powered devices) must be approved by the Fire and Health Departments;
- m. Mobile Food Vendors must adhere to the then applicable National Fire Protection Association food truck safety guidelines; and
- n. Mobile Food Vendors must maintain accessible passage on sidewalks and may not interfere with traffic lanes or bike lanes.

#### **Section 5: License Suspension, Revocation and Amendment**

- a. The City Council or its designee may approve an application to amend any License granted hereunder. The process for granting a License shall apply to any request to amend a License.
- b. The City Council or its designee may suspend or revoke a License granted hereunder for cause, after reasonable notice, being not less than \_\_\_\_\_ days, to the Mobile Food Vendor of the grounds for the proposed suspension or revocation and the time and place of the public hearing regarding such proposed action.

#### **Section 6: Variances**

The City Council may issue a variance from the provisions of these regulations upon a finding that \_\_\_\_\_.

#### **Section 7: Appeals of Licensing Board Decisions**

Any licensing decision made hereunder by a designee of the City Council may be appealed to the City Council.

**Commented [RS9]:** What do you want the process to be for the City Council to hear appeals?

#### **Section 8: Severability**

If any provisions, paragraphs, sentence, or clause of this regulation shall be held invalid for any reason, all other provisions shall continue in full force and effect.