



CITY OF MELROSE
LEGAL & LEGISLATIVE COMMITTEE
AGENDA • NOVEMBER 18, 2024

Council Chamber, First Floor, Melrose City Hall Committee Meeting
562 Main Street, Melrose, MA 02176

7:00 PM

The public should take notice that the Melrose City Council may, on certain occasions, have a quorum in attendance due to standing committees of the City Council consisting of both voting and non-voting members. Members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the standing committee.

I. CALL TO ORDER

Ryan Williams	Chair
Devin Romanul	Vice Chair
Kimberly Vandiver	
Maya Jamaledine	
John Obremski	
Leila Migliorelli	President, Ex Officio

II. PUBLIC COMMENT

tcifuni@cityofmelrose.org is inviting you to a scheduled Zoom meeting.

Topic: City Council Meeting and Subcommittees
Time: Nov 18, 2024 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting
<https://cityofmelrose-org.zoom.us/j/98034066739>

Meeting ID: 980 3406 6739
Passcode: 838941

A.

III. LEGISLATIVE ITEMS

1. **ORDNC-2024-5:** Requesting an Amendment to the Melrose Code of Ordinances, and adoption of a City Council licensing and application process, to address Food Truck Operations within the City of Melrose

IV. ADJOURNMENT



CITY OF MELROSE

OFFICE OF THE MAYOR

JENNIFER GRIGORAITIS

Mayor

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4440

To: Melrose City Council
From: Mayor Jen Grigoraitis
Date: June 12, 2024
Re: Ordinance to License Food Truck Operations within the City of Melrose

I am respectfully requesting the City Council's consideration and approval of a new ordinance to regulate food trucks as a business operating in Melrose. Over the past year, we have seen an increase in interest from vendors in operating food trucks within the City, and have dealt with these requests on an ad-hoc basis. This proposed ordinance provides a transparent and consistent process for vendors and City departments, and ensures that the licensing authority rests with the Council, in line with all other licensing requests. Enacting this ordinance will allow the City to promote business opportunities in Melrose and activate public spaces, while protecting public health and safety, and ensuring clear, fair, equitable, and predictable regulation.

Thank you for your consideration.

An Ordinance Amending the Melrose Code of Ordinances to License Food Truck Operations within the City of Melrose.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MELROSE AS FOLLOWS:

That current § 152-15 Lunch carts, be deleted.

That **Chapter 127 Hawkers, Peddlers and Transient Vendors** be Amended to reflect a new title- **Hawkers, Peddlers, Transient Vendors, and Mobile Food Vendors**, and a new **Article III Mobile Food Vendors** be added to **Chapter 127** as follows:

Article III Mobile Food Vendors

§ 127-13 License Required; Applicability.

No person or business entity shall operate as a Mobile Food Vendor in any public, private or restricted space without first obtaining a license from the City Council. A Mobile Food Vendor is any mobile operation that stores, prepares, packages, serves, sells or otherwise provides for human consumption any prepared or packaged food or beverages from a truck or a cart. This includes food carts, canteen trucks, catering trucks, breakfast trucks, lunch trucks, and any other mobile food unit. This definition does not include "ice cream truck" as defined and permitted under M.G.L.A. c. 270, § 25.

§ 127-14 Issuance of License; Fee

The applicant must complete an application form provided by the City Clerk's Office and pay an application fee of \$100.00. This shall be done on an annual basis. After the application materials are received and reviewed for completeness, the applicant will then be required to appear before the City Council for a public hearing.

- a. The City Council shall only approve the application once the applicant has obtained all required Health Department, Building Department, Police Department, and Fire Department final approvals (i.e., permits, reviews and/or inspections).
- b. Before a license to a Mobile Food Vendor is granted, the City Council must determine if the public good requires it. In making this determination, the City Council will consider the following factors:
 - i. Traffic and pedestrian safety issues;
 - ii. Impact on nearby parking, residences, and businesses;
 - iii. Completion of application materials and necessary departmental signatures/ permits;
 - iv. Any other public safety issues, as identified by the City Council;
 - v. The number of food trucks operating within the City; and
 - vi. Previous issues with compliance or past performance of the Mobile Food Vendor(s).
- c. The City Council reserves the right to defer action on the license application until all issues and concerns raised by the City Council are addressed by the applicant

to the City Council's satisfaction, and the City Council also reserves the right to deny the license if the applicant fails to meet the application requirements, or does not/cannot resolve the issues and concerns raised by the City Council.

§ 127-14 Exemptions

Mobile Food Vendors hired for private events on private property, or public property, do not require a License under this Ordinance and are exempt from these regulations for the duration of the event which shall not exceed 24 hours. Any such Mobile Food Vendor shall contact the Health and Human Services Department to determine necessary inspections and/or sign-offs prior to the event.

§ 127-15 Renewal

Every Mobile Food Vendor License may be renewed annually upon payment of the fee. When determining whether to renew a Mobile Food Vendor License, the City Council will utilize the same criteria as outlined in these regulations. Renewal forms may be obtained from the City Clerk's Office and must update all previously filed statements and plans, as appropriate.

§ 127-16 Conditions of Operation

- a. Unless otherwise specified, Licensees may operate only at specifically approved public or private locations at specifically approved times.
- b. Mobile Food Vendors shall not be allowed to remain in one location for more than eight (8) hours on any given calendar day.
- c. The Mobile Food Vendor licensee shall comply with all applicable rules, regulations, and ordinances, including but not limited to the those listed specifically on the application, Board of Health regulations, traffic and parking regulations, and the noise ordinance.
- d. Mobile Food Vendor Licenses are not transferrable.
- e. Mobile Food Vendor Licenses do not supersede approvals required for special events on public property or within the public right of way.

§ 127-16 Enforcement

- a. Any Mobile Food Vendor operating in violation of any provision within this section or any other rules and regulations promulgated by the City Council may be subject to a fine of One Hundred Dollars (\$100.00) per day, enforced by noncriminal disposition under M.G.L. c. 40, section 21D. The City Council, or its designee, the Police Department, Fire Department or Health and Human Services Director may enforce any provision of this Ordinance. Each day of violation shall constitute a separate offense.
- b. The City Council may revoke, suspend or modify a mobile food vendor license after reasonable notice to the licensee of the grounds for the proposed revocations, suspension or modification and the time and place of the hearing regarding such proposed action.

Mobile Food Vendor License Application

Payment of \$100 is due with application.

Licenses period run from January 1st through December 31st

Please make check payable to the City of Melrose c/o the Melrose City Clerk's Office

Name of Business: _____

Name of Owner: _____

Owner Address: _____

Mailing Address: _____

Owner Telephone: _____ Email Address: _____

Applicant's Name: _____

Applicant's Address: _____

Applicant's Telephone: _____ Email Address: _____

Applicant's Title (owner, operator, manager) _____

Mobile Unit Vehicle Registration Number: _____

Base of Operation: _____

****All mobile food operations are required to operate from a fixed licensed base of operation at which they obtain and/or store their food and clean their vehicles in accordance with 105 CMR 590.009(8)(12).**

Required Documents:

1. Business Plan Form
2. Food Service Permit issued by the Melrose Board of Health
3. State issued Hawkers and Peddlers License signed by the Melrose Police Department
4. Sanitation Plan: Approved by the Health Director.
5. Any Vendor planning to set up on City property must obtain permission from the Department of Public Works, the School Department, or the Parks Department depending on the location. Documentation of said permission is required to be submitted with the application.
6. Any Vendor planning to set up on private property shall provide a copy of the lease or agreement from the property owner.
7. Copy of License for the Base of Operations.
8. Fire Safety Inspection.
9. Occupancy permit from the Engineering Department if parking in a public way.

Other Required Conditions:

1. Inspection of truck/cart for new licensees. The Health Department will contact you to schedule an inspection when the Mobile Food License has been processed.
2. A Vendor may remain on one property for no more than eight (8) hours in total on any given calendar day. This shall not apply to permitted temporary events.
3. A Mobile Food Vendor may only operate between the hours of 6 a.m. and 10 p.m. on any public property, including but not limited to parks, sidewalks and streets.
4. A Mobile Food Vendor must comply with all posted traffic and parking regulations.
5. All Mobile Food Vendors shall comply with the regulations of the Massachusetts Department of Public Health, 105 CMR 590.00 and any local Board of Health Regulations.
6. Mobile Food Vendors shall not park adjacent to a bus stop, taxi stand or loading zone, or handicap ramp, within 30 feet of an intersection or directly in front of a property entrance. Vendors shall not park in front of any fire hydrants, fire department connection or within any fire lane. Vendors shall not park adjacent to or abutting (within 200 feet of) a traditional "brick and mortar" restaurant facility without permission granted by licensed abutters. This shall not apply to permitted temporary events.
7. Any On-Street Parking must obey all posted time limitations for the area.
8. The Mobile Food Vendor shall not park in such a manner so as to create a traffic hazard.
9. The Mobile Food Vendor License is non-transferable and must be conspicuously displayed in a place visible to all customers.
10. Mobile Food Vendor shall ensure safe positioning of the truck, cleanliness, and proper waste disposal. No licensee or employee of the licensee shall consume any alcoholic beverage or unlawful controlled substance during the 4 hours preceding and while on duty. No licensee or employee of the licensee shall be permitted to smoke while working as per Food Code regulations.
11. Licensees shall not be authorized to sell non-food novelty items such as t-shirts, hats, toys, etc. A separate retail license must be obtained from the Licensing Authority to receive permission to sell non-food items.
12. The Mobile Food Vendor shall provide for trash and recycling receptacles for the use of the public while at the vending site. Said receptacles and all papers, containers, trash or other litter shall be removed by the Vendor daily.
13. No signage shall be allowed other than signs permanently attached to the motor vehicle.
14. No tables, chairs, umbrellas or similar facilities shall be allowed to be set up.

ACKNOWLEDGEMENT

I hereby state that all information provided on this application is true and accurate and I understand that any information found to be false or misleading will result in the forfeiture of the license and may result in civil or criminal penalties. I also understand that the application fee required by the City is not refundable for any reason. I also certify that to the best knowledge and belief, that I have filed all state tax returns and paid all state and local taxes as required under law.

Signature of Owner

Date

Signature of Applicant

Date

MOBILE FOOD UNIT BUSINESS PLAN FORM

1. Describe all of the food to be served by the business. All foods served or planned to be served within the term of the license must be listed on this form. Please attach additional pages if necessary:

2. Describe the Mobile Unit, including but not limited to food preparation area, water and waste systems, hand washing , refrigeration and storage:

3. Describe the location or locations where the business plans to operate:

4. Describe the cooking methods and heat sources needed for the business to operate, including whether any propane units will be attached to the Mobile Unit or be placed on the ground:

Attached to this Form is the MOBILE FOOD VENDOR ORDINANCE. By signing below, the Applicant acknowledges receipt of this Ordinance.

Signature of Applicant

Date: _____

Ghobrial, Andrew

From: Finn McSweeney <[REDACTED]>
Sent: Monday, July 8, 2024 12:12 PM
To: City Council
Subject: Comment - ORDNC-2024-5

Hello,

This comment pertains to ORDNC-2024-5, food truck licensure. I applaud the administration for establishing clear rules for food trucks. Melrose residents want a greater diversity of businesses in the community, food options particularly, and creating clear rules for setting up and operating new types of businesses is a good thing.

I understand that the regulations have largely been modeled on a handful of other Massachusetts towns that have adopted similar ordinances. The model ordinance upon which our own draft is based was created 10+ years ago, at a time when "food trucks" were a brand-new concept to many cities and there was skepticism, especially within the restaurant industry, that they would be accompanied by a host of problems and would harm established local businesses. A [2022 study by the Institute for Justice](#), a national civil liberties nonprofit, found no evidence to support these concerns.

Nevertheless, Melrose's proposed ordinance contains a handful of protectionist terms which are clearly guided by these old fears, in particular the language barring food trucks from operating within 200 feet of a traditional "brick and mortar." I would ask that the City Council take a more modern view of the food truck concept and strike this language from the ordinance. Prohibiting La Cabaña from operating in their leased location at the Mobil station unless they have written approval from My Diner makes no more sense than it would have for the Council to require Big Fin Poké to get permission from Turner's or Starbucks to operate from their leased location, which had historically not featured a restaurant use either. A traditional brick and mortar victualler still has means of protesting locations under the ordinance: they can show up to the public hearing, just like anyone else.

I would also strike entirely the section that "the City Council must determine if the public good requires (the issuance of the license)." While the council is at times asked to consider public fitness of certain businesses (for example, new types of businesses: marijuana retailers, breweries, etc), a food truck is simply not a new type of business which requires a higher level of scrutiny. While councilors are always able to weigh in on "traffic" or "public safety" issues for the issuance of any license, this ordinance invites (if not requires) the council to speculate on problems the business might theoretically create. If I showed up at the renewal of Starbucks' licensing to complain about the constant pedestrian safety issues linked to their business, I have no doubt the Council would consider this outside their purview. Subjecting food trucks to this special scrutiny is anachronistic unless the council feels it's their responsibility to oversee this for all business licenses, which I am guessing you do not.

Thank you for your time.

Finn McSweeney

Attachment: McSweeney_Redacted (ORDNC-2024-5 : Amending the Melrose Code of Ordinances to License Food Truck Operations within the

****CITY OF MELROSE PUBLIC RECORDS NOTICE: Please be advised that the Massachusetts Attorney General has determined that email is a public record unless the content of the email falls within one of the stated exemptions under the Massachusetts Public Records Laws.****

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MELROSE AS FOLLOWS:

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I hereby state that all information provided on this application is true and accurate and I understand that any information found to be false or misleading will result in the forfeiture of the license and may result in civil or criminal penalties. I also understand that the application fee required by the City is not refundable for any reason. I also certify that to the best knowledge and belief, that I have filed all state tax returns and paid all state and local taxes as required under law.

Signature of Owner

Date

Signature of Applicant

Date

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1. Describe all of the food to be served by the business. All foods served or planned to be served within the term of the license must be listed on this form. Please attach additional pages if necessary:

2. Describe the Mobile Unit, including but not limited to food preparation area, water and waste systems, hand washing , refrigeration and storage:

3. Describe the location or locations where the business plans to operate:

4. Describe the cooking methods and heat sources needed for the business to operate, including whether any propane units will be attached to the Mobile Unit or be placed on the ground:

Attached to this Form is the MOBILE FOOD VENDOR ORDINANCE. By signing below, the Applicant acknowledges receipt of this Ordinance.

Signature of Applicant

Date: _____



CITY OF MELROSE

OFFICE OF THE MAYOR

JENNIFER GRIGORAITIS

Mayor

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4440

To: Melrose City Council
From: Mayor Jen Grigoraitis
Date: September 17, 2024
Re: Supplemental Information for Order 118975
CC: Lauren Grymek, Chief of Staff
Kerri Golden, CFO
Shannon Philips, City Solicitor

As a follow up to the City Council's Legal and Legislative Committee meeting held on July 8, 2024, my administration is providing the following information as a supplement to the attachments and discussions from that meeting:

Meals Tax:

Local meals tax is generated to the municipality where a food truck is headquartered and is detailed by the state as bulleted below.¹

- Transient vendors, such as providers of meals at fairs and special events with a fixed location, must separately register with DOR as a seasonal vendor for each such event in Massachusetts, indicating on their registration the month or months when the event will take place and the location, using the address of that city or town's licensing authority or the address of the venue where the event will be held.
- Sales by transient vendors without a fixed location, such as canteen trucks, are sourced to the business location of the vendor, unless that location is out-of-state, in which case the sales are sourced to the city or town where the vendor makes the highest total sales. Such a vendor must register with DOR using the address of that city or town's licensing authority.

Quarterly Meals Tax Distribution for Melrose as of September 9, 2024:

DLS

DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Data Analytics and Resources Bureau

Local Option Meals, Rooms & Community Impact Fee

Data current as of 09/09/2024

[Return to Databank Reports](#)
 For Questions or Assistance Email us at :
databank@dor.state.ma.us

LO Meals
LO Rooms
Community Impact Fee for STR

Quarterly Meals Tax Distribution

Select Municipalities:

Select Counties:

Select a fiscal year:

Melrose ▼

14 selected ▼

2024 ▼

Submit

Export to Excel

DOR Code	Municipality	County	Fiscal Year	September	December	March	June	Totals
178	Melrose	Middlesex	2024	101,360	92,705	88,536	124,855	407,456
Total:				101,360	92,705	88,536	124,855	407,456

¹ <https://www.mass.gov/technical-information-release/tir-09-13-local-option-sales-tax-on-meals-and-local-option-room-occupancy-excite-rate-increase>

Per MGL Chapter 64L-Section D², DLS can provide a list of the amount collected in the aggregate and the identification of a list of vendors registered in a municipality. The law further states DLS will not provide meals tax paid by each business. At the time of this memo, the Auditor's Office is waiting for DLS to provide such a list of registered food truck vendors with headquarters in Melrose.

Process for Food Truck Licensing by the Health and Human Services Department

The Health and Human Services Department oversees the licensing process for food trucks operating within our jurisdiction. The process varies depending on whether the food truck is licensed with a food establishment in Melrose or an outside municipality. Additionally, all food trucks must obtain a temporary event permit for special events.

1. Licensing with a Melrose Food Establishment:

- Food trucks associated with a Melrose-based food establishment must undergo two annual inspections conducted by our department.
- These inspections ensure the food truck meets all local health and safety standards.

2. Licensing with an Outside Municipality Food Establishment:

- For food trucks licensed with a food establishment outside of Melrose, our department requires confirmation of the food establishment's good standing from the corresponding Health Department.
- This confirmation must demonstrate that the establishment complies with its home municipality's health and safety regulations.
- Once confirmation is received, the food truck will be eligible for licensing in Melrose.

3. Temporary Event Permit:

- All food trucks, regardless of their licensing status, must obtain a temporary event permit for each special event they participate in within Melrose.
- This permit ensures food trucks comply with event-specific health and safety requirements.

Right of Way Occupancy Permit:

Previously, the City required Food Trucks to apply for a Right of Way Occupancy Permit which is issued by the DPW Engineering Division. The following conditions were attached to a permit issued to a food truck operating in Melrose through May 2024

1. This permit applies only to locations within the City's right-of-way.
2. All locations must be within the City's right-of-way and must not restrict accessible access along sidewalks or other locations where ADA accessibility is required.
3. When located within a parking space, it is the permittee's responsibility to protect their food cart and any accessories from damage from traffic or other hazards. When in a parking space, the cart shall be protected by safety cones or other acceptable traffic safety measures to ensure visibility and protect the permittee's assets.
4. Should any City employee deem there to be a safety or other hazard at any time, they may require the permittee to vacate their current location. No substitute locations will be allowed without the prior notice noted above.
5. The permittee will be required to reimburse the City for any damage caused to any part of the right-of-way as a result of their operation.

² <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter64L>

6. The issuance of this DPW Engineering Division Right-of-way Permit does not constitute or imply approval from any other applicable City or other entity from whom a permit may be required for operation of the proposed food cart.
7. The Engineering Division must have a valid insurance certificate for this use on file at the time of any proposed operation.
8. This permit may be rescinded by the City at any time should issues arise from the operation of the proposed food cart.
9. The Permittee shall provide their own trash barrels and if the site is not being left clean either due to the owner or their customers, we will revisit the approval and reserve the right to revoke or amend the permit at any time.
10. The Permittee shall not operate before 8:30am Monday – Friday to allow St. Mary’s School parents to drop their children off at school.

My team and I look forward to continued discussions about this order.